

Appeal No. VA15/4/016

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

**Dermot Ronan**

**APPELLANT**

**And**

**Commissioner of Valuation**

**RESPONDENT**

**In Relation to the Issue of Quantum of Valuation in Respect of:**

Property No. 2169304, Store, 17/1, Ballyclovan, Callan Rural, Callan, County Kilkenny.

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 21<sup>ST</sup> DAY OF AUGUST, 2017**

BEFORE:

**Dolores Power – MSCSI, MRICS**

**Deputy Chairperson**

**Brian Larkin – BL**

**Member**

**Claire Hogan – BL**

**Member**

**1. THE NOTICE OF APPEAL**

By Notice of Appeal received on the 17<sup>th</sup> day of November, 2015 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €40 on the above described relevant property on the grounds as set out in the Notice of Appeal as follows:

*"Property became vacant and not used for commercial gain since 2009.*

*Vacant property should not be included in valuation as commercial activity is not carried out at this premises."*

## 2. THE HEARING

The Tribunal, having examined the particulars of the property the subject of this appeal; having confirmed its valuation history; having examined and considered the written evidence and having heard the oral evidence on the 14<sup>th</sup> day of October, 2016 adduced before us by Mr. Dermot Ronan, the Appellant, who contended that the Subject Property should not be included in the Valuation List, and Mr. Viorel Gogu on behalf of the Respondent to the appeal.

## 3. THE PROPERTY

The Subject Property is an old farm building situated on a crossroad between R691 and R695 in a rural location in Ballyclovin, approximately 4km from Callan, County Kilkenny.

The floor areas are as follows:

Block	Level	Use	Area (m2)
1,2	0	STORE	250.58
3	0	STORE	120.60
4	0	STORE	129.86
5	0	STORE	11.13
	0	YARD HARDCORE	655.20

The Subject Property is freehold.

## 4. VALUATION HISTORY

The Subject Property was first valued by the Valuation Office in 2003. Following receipt of a revision application submitted by Kilkenny County Council Mr. Gogu, of the Respondent's office, was appointed to inspect the property which he did in 2015 and also met with the Appellant at inspection time.

A No Material Change Notice issued from the Valuation Office on the 26<sup>th</sup> day of August 2015 with a proposed valuation of €40. Generally, should an occupier be dissatisfied with the result of a Revision, a representation can be made to the Revision Manager. On the 23<sup>rd</sup> day of September 2015 the Appellant made representations to the Revision Manager, Valuation Office, however, these were sent to the Valuation Tribunal in error. Said representations were subsequently forwarded by the Valuation Tribunal to the Valuation Office, however, at that stage the deadline for receipt of representations had passed.

A No Material Change of Circumstances Notice issued from the Valuation Office on the 21<sup>st</sup> day of October 2015 with a valuation of €40. This valuation was subsequently appealed to the Valuation Tribunal.

## 5. THE APPELLANT'S CASE

The Appellant argued that the Subject Property should not be valued as it has been vacant since 2009. He stated that he does not use the Subject Property for commercial activity and that it is advertised on his website as 'for rent.' The Deputy Chairperson advised the Appellant that he should advertise his property publicly by way of national websites as well as his own website

as this would usually be a standard requirement of the relevant Local Authority in consideration of allowing a possible Vacancy Rate.

No factual information regarding the Subject Property was provided by the Appellant to assist the Tribunal. The only evidence provided by the Appellant was a map and two photographs of the property of another bus operator 0.5 miles from the Subject Property on the main Kilkenny/Cashel Road. This property does not appear on the Valuation List. At the hearing the Appellant argued that this property is a comparable property. The Deputy Chairperson advised that it is open to any member of the public to bring a property which is not on the Valuation List to the attention of the relevant Local Authority.

In the interests of fairness, the Deputy Chairperson afforded the Appellant a further opportunity to submit a precis of evidence in support of his appeal. The Appellant was advised to include information on comparable properties to his in the same rating authority area in order to allow the Tribunal consider this appeal in more depth. No new evidence was provided by the Appellant.

## **6. THE RESPONDENT'S CASE**

In his precis of evidence Mr. Gogu stated that during inspection of the Subject Property, no material change of circumstances had been identified. In his view, the Subject Property does not fall under provision of Schedule 4 of the Valuation Act, 2001.

As no material change of circumstances had occurred Mr. Gogu stated that he is not entitled to exercise the powers set out in section 28(4) and there was no alternative but to issue a No Material Change of Circumstances Notice and to make no change to the valuation of the Subject Property as it appears on the Valuation List.

## **7. DETERMINATION**

Under the Valuation Act 2001, as amended by the Valuation (Amendment) Act, 2015 a revision of the valuation of a particular property may only be carried out if a Material Change of Circumstances has taken place since the property was last valued.

The matter before the Tribunal is whether or not a material change of circumstances occurred that warranted the exercise of powers under Section 28(4) of the Valuation Act, 2001, as amended.

The onus of proof in appeals before the Tribunal rests with the Appellant.

No evidence on this matter was provided by the Appellant.

The fact that the property of another bus operator near to the Subject Property does not appear on the Valuation List is not a matter for the Tribunal.

Accordingly, the Tribunal disallows the appeal and confirms the decision of the Commissioner of Valuation.

And the Tribunal so determines.