

**Appeal No: VA17/5/073**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

**AN tACHTANNA LUACHÁLA, 2001 - 2015  
VALUATION ACTS, 2001 - 2015**

**EOIN GRIFFIN**

**APPELLANT**

**and**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of**

Property No. 2181135, Leisure at Local No/Map Ref: 1G,2C,3Adef/2, Ballyrowragh, Kilcolumb, Waterford, County Kilkenny.

**B E F O R E**

**Majella Twomey - BL**

**Deputy Chairperson**

**Frank Walsh – QFA, Valuer**

**Member**

**Thomas Collins – PC, FIPAV, NAEA, MCEI, CFO**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 6<sup>TH</sup> DAY OF JULY, 2018**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 4<sup>th</sup> day of October, 2017 the Appellant appealed against the determination of the Respondent pursuant to which the net annual value ‘(the NAV’) of the above relevant Property was fixed in the sum of €18,610.

1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows:

- A. *"The Valuation of the subject property is excessive and inequitable"*
- B. *The subject property should be valued on a per stable basis.*
- C. *The Commissioner has assessed a workshop which is domestic.*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €9,110.

## **2. REVALUATION HISTORY**

2.1 On the 11<sup>th</sup> day of May, 2017 a copy of a valuation certificate proposed to be issued under section 24(1) of the Valuation Act 2001 (“the Act”) in relation to the Property was sent to the Appellant indicating a valuation of €18,610.

2.2 Being dissatisfied with the valuation proposed, representations were made to the valuation manager in relation to the valuation, stating that some parts of the property are not rateable. Following consideration of those representations, the valuation manager did not consider it appropriate to provide for a lower valuation.

2.3 A Final Valuation Certificate issued on the 7<sup>th</sup> day of September, 2017 stating a valuation of €18,610.

2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is the 30<sup>th</sup> day of October, 2015.

## **3. THE HEARING**

3.1 The Appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal at Holbrook House, Holles Street, Dublin 2, on the 10<sup>th</sup> day of April, 2018 and the 15<sup>th</sup> day of May, 2018. At the hearing the Appellant was represented by the Mr David Halpin MSc (Real Estate), BA (Mod). The Tribunal adjourned the hearing to provide Mr Eoin Griffin, the Appellant, to provide oral evidence. The Respondent was represented by Mr Terry Devlin BSc, SCSI, RICS of the Valuation Office.

3.2 In accordance with the Rules of the Tribunal, the parties had exchanged their respective reports and précis of evidence prior to the commencement of the hearing and submitted them to the Tribunal. At the oral hearing, each witness, having taken the oath, adopted his précis as his evidence-in-chief in addition to giving oral evidence.

3.3 Mr Halpin gave evidence on behalf of the Appellant on the 10<sup>th</sup> day of April 2018. Having heard his evidence, the Tribunal adjourned and invited the Appellant, Mr. Griffin, to attend to give evidence as to the precise use of the relevant blocks, in dispute, in the subject property. The hearing reconvened on the 15<sup>th</sup> of May 2018, when the Appellant, Mr. Griffin, gave evidence. The Tribunal will refer, in its decision, to the various blocks outlined in a map of the subject property, which was produced at hearing and which is attached as an appendix to this decision.

## **4. FACTS**

4.1 From the evidence adduced by the parties, the Tribunal finds the following facts.

4.2 The subject property is located in rural Kilkenny, approximately 11 km from Waterford City and 15 km from New Ross.

4.3 The Subject property is a horse training and breeding stables with associated additional buildings.

4.4 The agreed floors areas for the different blocks are as follows: Block 1 – 268.01 Msq, Block 2 – 280.14 Msq, Block 3 – 197.73 Msq, Block 4 – 224.64 Msq. There is an additional pool area which measures 243.60 Msq.

## 5. ISSUES

5.1 The following issues arose, at hearing, before the Tribunal, for assessment:

- A. Whether the stables at Block 2, are rateable?
- B. Whether the buildings at Blocks 3 and 4 are rateable and whether they can be classed as farm buildings and ,therefore, exempt?

## 6. RELEVANT STATUTORY PROVISIONS:

6.1 The net annual value of the Property has to be determined in accordance with the provisions of section 48 (1) of the Act which provides as follows:

“The value of a relevant property shall be determined under this Act by estimating the net annual value of the property and the amount so estimated to be the net annual value of the property shall, accordingly, be its value.”

6.2 Section 48(3) of the Act as amended by section 27 of the Valuation (Amendment) Act 2015 provides for the factors to be taken into account in calculating the net annual value:

“Subject to Section 50, for the purposes of this Act, “net annual value” means, in relation to a property, the rent for which, one year with another, the property might, in its actual state, be reasonably be expected to let from year to year, on the assumption that the probable annual cost of repairs, insurance and other expenses (if any) that would be necessary to maintain the property in that state, and all rates and other taxes in respect of the property, are borne by the tenant.”

6.3 Section 3 of the Act provides for the definition of “farm buildings” as meaning—

(a) buildings, parts of buildings, or other structures, occupied together with agricultural land and used solely in connection with the carrying on of agricultural activities on that land,

(b) buildings, parts of buildings, or other structures, used solely for the production of livestock, poultry or eggs or for the breeding of bloodstock or other animals,

(c) buildings, parts of buildings, or other structures, occupied together with land developed for horticulture or forestry and used solely in connection with the carrying on of horticultural or forestry activities, as the case may be, on that land,

(d) buildings, parts of buildings, other structures or cages or tanks, used for the production or rearing of fish,

other than—

(i) buildings, parts of buildings, or other structures, used for the production of furs or used for the training of bloodstock or other animals, or

(ii) buildings, parts of buildings, or other structures, used for the storage of agricultural, horticultural or forestry goods not produced on the land attached to such buildings or structures, or

(iii) buildings, parts of buildings, or other structures, used for the processing or sale of agricultural, horticultural or forestry goods (whether produced on the land attached to such buildings or structures or not) or used for sawmills or the carrying on of activities necessarily related to the activities of sawmills, or

(iv) buildings, parts of buildings, or other structures, used for the storage, processing or sale of fish, or

(v) buildings, parts of buildings, or other structures, used for the production of tropical fish or exotic birds or butterflies or other similar species;

## **7. APPELLANT'S CASE**

### **Mr. Halpin's evidence:**

7.1 At hearing, Mr. Halpin gave evidence that Blocks 3 and 4 of the subject property, as set out in the map herein annexed hereto, are farm buildings and used as such and, therefore, should not be rated. He gave evidence that he believed that the blocks in question fell within the definition of farm buildings and should, therefore, be exempt.

7.2 In addition to this, Mr. Halpin said that The Valuation Office had also rated all of Block 2, but that Block 2 should be exempt as it is used for breeding horses as opposed to training horses. He said that Mr. Griffin cannot rent the stables in Block 2 as it is against turf rules to have another trainer in the yard and that unless Mr. Griffin is uses the stables that no one else can.

7.3 Mr Halpin said that only Block 1 and the pool should be rated, in his view.

7.4 In cross examination, it was put to Mr. Halpin that on Mr. Griffin's website, there was no mention of breeding horses and that Mr. Halpin was not able to give any details of breeding activities. Mr. Halpin accepted this as a failure in his evidence.

### **Mr. Griffin's evidence:**

7.5 Mr Griffin gave evidence when the case was re-called on the 15<sup>th</sup> of May 2018. Mr. Griffin said that he began to start training horses in 2002, and he took out a public licence. He said that this licence is specific to him. Prior to that he had a private permit. He added 17 stables to the property in 2004. At that time, his business was going well.

7.7 Mr Griffin said that he completed a major expansion in 2008, adding more stables and a pool. Mr. Griffin said that this was the start of the recession and his business took a turn for the worse. He said that, at that time, he began to concentrate on breeding.

7.8 Mr Griffin said that Block 2 was originally used as stables for training. He said that it is now used, soley, for breeding. He said that it is not ideal to have breeding and training horses in the same area as this could cause contamination.

7.9 The evidence given by Mr. Griffin in relation to Block 1, was that it is used for race horses. He said that Block 3 was a quarantine barn but it is unused at present. There are 6 stables therein.

7.10 In relation to Block 4, Mr. Griffin said that it is used for the storage of bedding and hay for all of the stables.

7.11 At the request of Mr. Devlin, from The Valuation Office, Mr Griffin produced documentation including the names and passport details for all the brood mares kept at the stables for the past five years. He also produced details and copies of passport for all of the off spring kept at the premises for each of the last five years. Mr. Devlin inspected these prior to the hearing and confirmed to the Tribunal that he accepted that this was proof that Mr. Griffin was keeping breeding horses at the subject property.

## **8. RESPONDENT'S CASE**

8.1 Mr. Devlin, in his evidence, said that the only blocks which are in issue are Blocks 2, 3 and 4 and the question for the Tribunal is what is rateable and what is not. He confirmed that The Valuation Office had rated everything.

8.2 Mr Devlin gave evidence that blocks 3 and 4 were easier to assess. He said that Block 4 is not used solely for agriculture purposes. He said that the photographic evidence shows that Block 4 is used for the storage of equipment and clippings of hay.

8.3 In relation to Block 3, Mr Devlin said that it is a quarantine stable. He said that just because Mr. Griffin is not using the stable does not mean that it cannot be used. He said that a hypothetical tenant could use it.

8.4 In relation to Block 2, Mr Devlin said that he accepted Mr. Griffin's evidence that Block 2 is being used for breeding but he said that the question was whether the entire of the block was being used for breeding.

## **9. SUBMISSIONS**

9.1 Mr. Halpin submitted that Blocks 3 and 4 are 'farm buildings' within the meaning of Section 3 of the Act and should be exempt. Furthermore, he submitted that Block 2 is a breeding block and is also exempt. He submitted that the only parts of the property which are rateable are Block 1 and the swimming pool.

9.2 Mr. Devlin submitted that in relation to Block 3, that it is rateable. He said that the legislation is very clear in relation to the definition of 'farm buildings' and that Block 3 does not fall within that definition. Furthermore, he said that Block 4 does not meet the definition of 'farm buildings' as per the act due to its use. In relation to Block 2, it was submitted that if the Tribunal found that the entire of the building was used for breeding horses that it could fall within the exemption.

## **10. FINDINGS AND CONCLUSIONS**

10.1 On this appeal the Tribunal has to determine whether three blocks of buildings within the subject property should be rated or whether they are exempt.

10.2 In relation to Block 2, the Appellant provided clear evidence, at hearing, that this block is used exclusively for breeding purposes. He corroborated his oral evidence that he has a

number of brood mares and offspring at the property, by producing a passports for same. Mr. Devlin accepted this evidence and suggested that the question for the Tribunal is whether the entire of Block 2 is being used for breeding purposes. Mr. Griffin, in his evidence, was clear that he could not mix breeding horses with horses that are being trained, in order to ensure there is no cross contamination. There was no evidence to contradict this and the Tribunal finds no reason not to accept this evidence.

10.2 Having weighed and evaluated the evidence before it, in relation to Block 2, the Tribunal finds that it does fall within Section 3 (a) of the Act and that it comprises of *'buildings, parts of buildings, or other structures, occupied together with agricultural land and used solely in connection with the carrying on of agricultural activities on that land.'*

10.3 In relation to Block 3, the clear and undisputed evidence of Mr. Griffin was that this is a quarantine block with six stables. While it is unused at present, it is capable of being used. Mr. Devlin made the point that this is a building which is capable of being used and, therefore, should be rated. In the circumstances and taking all of the evidence before us into account, the Tribunal finds that there is no clear evidence before it to suggest that Block 3 should be exempted as there is nothing to suggest that it falls within the definition of 'farm buildings' in Section 3 of the Act.

10.4 In relation to Block 4, the Tribunal has assessed the photographic evidence supplied by the parties, along with the oral evidence of Mr. Griffin. The photographs show bedding in Block 4, which the Appellant's admitted is used for training horses along with the breeding horses. Furthermore, there was evidence of the existence of equipment and plant for the swimming pool being stored in Block 4. Mr. Griffin stated in evidence that the wood shavings which were stored in Block 4 are used equally in all of the stables. Taking into account the photographic evidence coupled with the evidence from the Appellant, himself, it is clear to the Tribunal that Block 4 is not solely used for agricultural purposes and is, therefore, not exempt from being rated by The Valuation Office.

10.5 The Tribunal, however, notes that the store at Block 4 is rated at €20 per MSq. The Tribunal has assessed this in light of a number of comparators put forward by the Respondent. The Tribunal notes that there are several comparators before it, which are in similar geographical locations and whose stores are rated at between €12 -€15 per MSq. In particular, the Tribunal refers to PN2210100, Pollrone, Tullahought (comparator number 4 of the Respondent's comparators) and PN181008, Monadubbaun, Dunnamaggan (comparator number 5 of the Respondent's comparators), whereby the stores are valued at €12 and €15, respectively. Taking these comparators into account, the Tribunal finds that the rate per MSq of the store in the subject property, should also be reduced to €15 per MSq.

**DETERMINATION:**

Accordingly, for the above reasons, the Tribunal allows the appeal in relation to Block 2 only and finds that it falls within the definition of 'farm building' in Section 3 of The Act.

Subject	MSq	Rate per MSq	Total
Block 1	268.01	€15.00 (Same)	€4,020.15
Block 2	280.14	Exempt	€0

Block 3	197.73	€15.00 (Same)	€2,965.95
Block 4	224.6	€15.00 (Decrease)	€3,369.00
Swim pool	243.60	€20.00 (Same)	€4,872.00
Total			€15,231.10
Say			€15,200

And so the Tribunal determines