

Appeal No. VA11/5/165

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

Dr. Louis Roche

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 341932, Surgery (Office) at 18 Pembroke Cottages, Main Street,
Dundrum, County Dublin.

B E F O R E

Maurice Ahern - Valuer, IPAV

Deputy Chairperson

Tony Taaffe - Solicitor

Member

Patricia O'Connor - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 20TH DAY OF FEBRUARY, 2012

By Notice of Appeal dated the 22nd day of August, 2011 the appellant appealed against the determination of the Commission of Valuation in fixing a valuation of €19,350 on the above described relevant property.

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

"The assessment is excessive having regard to the use of the property."

The appeal proceeded by way of an oral hearing which took place in the offices of the Valuation Tribunal, Ormond House, Ormond Quay, Dublin 7 on the 12th day of January, 2012. The appellant Dr. Louis Roche was represented by Mr. Conor Ó Cléirigh, FSCSI, FRICS Chartered Valuation Surveyor. The respondent was represented by Ms. Maeve Diamond BSc (Hons), MRICS, MSCSI, DipArd of the Valuation Office.

In accordance with the rules of the Tribunal, the parties had exchanged their respective précis of evidence prior to the commencement of the hearing and submitted same to this Tribunal. At the oral hearing both parties having been sworn in adopted their précis as being their evidence-in-chief. This evidence was supplemented by additional evidence given either directly or via cross-examination. From the evidence so adduced the following emerged as being the facts relevant and material to this appeal.

At Issue

Quantum

The Property

The subject property comprises the entire ground floor accommodation within a two-storey end of terrace building and is located on the Main Street, Dundrum, Dublin 14 fronting onto this Main Street and is the last of a row of cottages. The agreed Net Internal Area (NIA) is 43 sq. metres.

Tenure

The property is held freehold.

Valuation History

The proposed Valuation Certificate was issued by the Valuation Office on the 15th June, 2010. The valuation was €24,700 in respect of the ground floor and first floor. In July 2011 representations were made to the Valuation Office by Conor Ó Cléirigh & Company. Following consideration of these, the Valuation Certificate was issued with a valuation of €19,350 in respect of the ground floor. An appeal was lodged with the Commissioner of Valuation on 8th February, 2011. Following consideration of this, the valuation remained unchanged. On the 22nd August, 2011 an appeal was lodged with the Valuation Tribunal.

Appellant's case

Mr. Conor Ó Cléirigh, took the affirmation and adopted his précis as his evidence-in-chief and provided the Tribunal with a review of his submission. In essence he described the appeal as an appeal against the rate per sq. metre being applied to the subject property. He gave a description of the subject property and stated that his case was based on a reliance on Section 48 of the Valuation Act, 2001 and that he wished the subject property to be valued as a dental surgery. He briefly referred to his Comparisons 1 and 2, details of which are attached at Appendix 1 to this judgment. Mr. Ó Cléirigh stated that he was disregarding his Comparison No. 3 as the planning status of this comparison was fundamentally different from the subject property.

Mr. Ó Cléirigh contended for the following valuation:

43 sq. metres @ €260 per sq. metre = €11,180
NAV say €11,000

Cross-examination

When cross-examined by Ms. Diamond for the Valuation Office he agreed that her comparisons were the best comparisons. He also agreed that they were of a similar type of construction as the subject property. In relation to the subject property being end of terrace he did not agree that there was more natural light since one room had what he described as “borrowed light”. He also agreed that his comparison No. 2 was in a primarily residential area and stated that it had a car park available to it. He also agreed that he had not produced any rental evidence in respect of his submission.

Respondent's case

Ms. Diamond took the oath, formally adopted her précis as her evidence-in-chief and reviewed her submission. Her evidence consisted of her giving a description of the subject property while confirming that it was freehold. She also referred to her comparisons, details of which are attached at Appendix 2 to this judgment. Ms. Diamond contended for a valuation of €19,350, calculated as follows:

Surgery 43 sq. metres @ €450 per sq. metre = €19,350
NAV €19,350

Cross-examination

It was suggested that pursuant to Section 48 of the Valuation Act that the property should be rated in its actual state. The witness agreed that planning permission would be required for change of use and also agreed that it was a protected structure along with all of the other cottages in the row of cottages at the location. In relation to the appellant's Comparison 1 she stated that this property was vacant at the moment and that while it was on the Main Street that it was set back from the Main Street and further described it as being at the residential end of the Main Street and that in effect it was a converted residence. She agreed that there was car parking at the rear. She also accepted that the appellant's Comparisons 1 and 2 were for dental practices and that they were both valued at €260 per sq. metre. In relation to the subject property she insisted that it was valued in line with adjacent properties and accepted that comparison 3 of the appellant's had planning permission for retail use.

Closing Submissions

In his closing submission Mr. Ó Cléirigh suggested that the valuation that had been placed on the subject property was inequitable and that it deserved to be rated as a dental practice in line with the two comparisons provided by him. In response, Ms. Diamond for the respondent, submitted that the valuation was fair and was in line with the similar properties immediately adjacent.

Findings

1. The subject property is used by the appellant for professional use as a dental surgery.
2. There is no dispute between the parties as to the calculation of the net internal floor area of the subject property.
3. There was no disagreement between the parties as to description, location or condition of the subject relevant property.
4. The details of the comparable properties cited by the appellant in his précis, and as reviewed at the hearing, though helpful as a general guide in relation to the valuation of local dental practices are not considered sufficient to support the appellant's argument. The most relevant comparisons are those cited by the respondent, which are located immediately adjacent to the subject property and are therefore directly comparable. All of these comparisons are valued at a similar rate to the subject property including the property next door to the subject property, which is also used

for professional use, as a doctor's surgery. The Tribunal is of the view that this comparison is of most assistance and relevance insofar as it is immediately beside the subject property and is in fact a terraced property, unlike the subject property which is end of terrace. It is also used for professional use.

5. The Tribunal is of the view that there is an emerging tone of the list in respect of the properties located within this location and that the respondent valued the property in line with that tone.
6. The appellant failed to adduce sufficient satisfactory evidence as to why the subject property should be valued on a lower rate than other properties within the same location and accordingly failed to discharge the onus on him of showing that the valuation of the subject property as appearing on the valuation list was incorrect.

Determination

Having regard to all of the forgoing the Tribunal is satisfied that the Net Annual Value of €19,350 as determined by the Commissioner of Valuation is fair and reasonable. The Tribunal therefore affirms the valuation.

And the Tribunal so determines.