

Appeal No. VA09/1/010

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

**Mary Prior**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property No. 5001689, Créche at 35 Raheen Road, Tallaght, County Dublin.

**B E F O R E**

**Maurice Ahern - Valuer**

**Deputy Chairperson**

**Fiona Gallagher - BL**

**Member**

**Michael F. Lyng - Valuer**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**

**ISSUED ON THE 24TH DAY OF JUNE, 2009**

By Notice of Appeal dated the 16th day of February, 2009 the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €9,000 on the above described relevant property.

The grounds of Appeal are set out in the Notice of Appeal and a letter attached to the Notice of Appeal, a copy of which is contained in the Appendix to this judgment.

The appeal proceeded by way of an oral hearing held in the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 22<sup>nd</sup> day of April, 2009. At the hearing the appellant was represented by Ms. Irene Gunning, IPPA and Ms. Marlene McCormack, IPPA, also attended. Mr. Francis Twomey, a Valuer in the Valuation Office, represented the respondent, the Commissioner of Valuation.

### **Valuation History**

A revision of the above property was carried out in March, 2008. A proposed Valuation Certificate was issued on 11<sup>th</sup> April, 2008, proposing an RV of €9,000. The occupier submitted representations on 7<sup>th</sup> May, 2008. Following consideration of the representations, a Valuation Certificate was issued on 24<sup>th</sup> June, 2008 unchanged at RV €9,000. This valuation was appealed to the Commissioner, under section 30 and 31 of the Valuation Act, 2001. Following consideration of the appeal, under section 33 of the Valuation Act, 2001, the Commissioner disallowed the appeal. This decision has now been appealed to the Valuation Tribunal, under section 34 of the Valuation Act, 2001.

### **Location**

The property is located in Tallaght, off the Cookstown Road in the Raheen Estate.

### **Description**

The subject property is a separate building in the back garden of a semi-detached house on a corner site. It is a single-storey detached building and used as a crèche/playschool.

### **Floor area**

36 sq. metres

### **Appellant's Case**

Ms. Irene Gunning, having taken the oath outlined to the Tribunal that the subject property was located in the back garden of Mary Prior's house and could not be used for other businesses. She stated that playgroups must conform to HSE specifications and because the subject property is small, it is limited in the number of children that can be admitted and the hours it can operate. The playgroup runs 2.5 to 3.5 days per week and is financed by the Tallaght parents who send their children there. She also said that a playgroup cannot be equated with a crèche because a playgroup can only remain open for a limited period daily

with the same children while a crèche can give a full day service without any break. In reply to Mr. Twomey, Ms. Gunning stated that the HSE (following inspection based on measurements) sets the standard for playgroups, i.e. the number of children that can be enrolled and the number of attendants required. Ms. Gunning agreed with Mr. Twomey that it's not unique to have playgroups in people's back gardens.

Ms. Prior, having taken the oath, told the Tribunal that she started the playgroup about 14 years ago after working with friends in that area previously. She said she got no grants and had to build the property privately from her own resources. She also had to pay a €1,700 planning contribution. Ms. Prior said she had very little profit from the business, as she had to reinvest every year to keep the playgroup up-to date. She also employs one full-time staff member. When asked by Mr. Twomey whether it was the rates or the valuation she was questioning, Ms. Prior stated that it was the amount of rates she had a problem with, but that she was not familiar with the valuation procedures. She felt that the valuation should be based on income because it varied from year to year. She agreed with Mr. Twomey that the valuations for playgroups and crèches were not based on accounts, but on a rate per sq. metre.

### **Respondent's Case**

Mr. Francis Twomey having taken the oath adopted his précis as his evidence-in-chief and stated that the subject property is located in the Raheen Estate residential area, Tallaght. It is a single storey detached building to the rear of a private house and is being used as a playgroup. There is a common access with the house from the public road. The agreed floor area is 36 sq. metres.

Mr. Twomey contended for a valuation of €9,000 on the subject property as follows:

Ground Floor: 36 sq. metres @ €250 per sq. metre = €9,000

Mr. Twomey discussed his comparisons, which were crèches in the Dublin 24 area where the subject is located. His first and second comparisons were from the Tallaght area. They were houses converted to crèches and valued at €250 per sq. metre. His third comparison was part of the ground floor of a residential property and used as a crèche and again valued at €250 per sq. metre. He stated that the Valuation Office as a general policy would not use accounts when valuing crèches or playschools, as they are valued on gross internal area basis. The number of children present at any time has no bearing on the valuation. In reply to Ms. Prior

regarding the valuation of pubs or hotels, Mr. Twomey stated that they are a separate category and in the case of hotels, valued on accommodation, while pubs are valued on turnover. Playschools and crèches are valued on the “tone of the list.” Ms. Prior felt that crèches had a much bigger scope for development and should be valued in a separate category from playschools. In reply to the Tribunal, Ms. Prior stated that she could run the playschool with different groups of children over the full day but she would have to have a break in between sessions.

### **Cross examination**

Mr. Twomey, in reply to Ms. Prior, stated the valuation system was equitable and that the Valuation Office had to work within the Valuation Act. He also stated that the valuation would not be increased if the number of pupils were doubled in the playschool and he also felt that his valuation of the subject property was fair.

### **Findings**

The Tribunal, having carefully considered all the evidence and arguments adduced by the parties, makes the following findings:

1. The planning permission granted to the playschool is restrictive.
2. Access to the playschool is confined as it is located to the rear of a private residence.
3. The subject property is confined in its use due to space (36 sq. metres).
4. The Valuation Office comparisons are residences converted to stand alone crèches.
5. Taking into account all of these factors, the valuation should be at the lower end of the “tone of the list” which Mr. Twomey stated in his précis of evidence to be between €200 and €250 per sq. metre.

### **Determination**

Having regard to the foregoing findings, the Tribunal determines the net annual value of the subject property to be as follows:

Crèche: 36 sq. metres @ €200 per sq. metre = €7,200

And the Tribunal so determines.