

Appeal No. VA94/1/012

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

Finbarr & Anna O'Shea

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: House and Office at Map Reference: 24J, Townland: Cosmona (part of), Loughrea Urban North, R.D.: Loughrea, Co. Galway
Commercial usage of an office in a house

B E F O R E
Mary Devins

Solicitor (Acting Chairman)

Veronica Gates

Barrister

Patrick Riney

F.R.I.C.S. M.I.A.V.I.

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 20TH DAY OF OCTOBER, 1994

By Notice of Appeal dated the 28th day of April, 1994 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £36 on the above described hereditament.

The grounds of appeal were set out in a letter attached to the Notice of Appeal and to this Judgment as Appendix 1.

In summary the appellant was appealing on the grounds that the valuation was extremely excessive.

The Property:

The property is situated at the end of a cul-de-sac called Donnellan Drive on the outskirts of Loughrea. All houses on the cul-de-sac are private.

The premises is a two storey, 4-bedroom house built to the occupier's specifications. One room of the house is used as an office.

Written Submissions:

A written submission was received on the 30th August, 1994 from Mr. Finbarr O'Shea, the appellant.

In his written submission Mr. O'Shea said that the property was:-

- 1) Not a full time office and not exclusively used by Mr. O'Shea.
- 2) Not open to the public nor commercial.
- 3) No identification plate or name anywhere.
- 4) No fax or business computer facilities.
- 5) Not insured for business.

Mr. O'Shea also argued that as the road was a private road the maintenance and upkeep was carried out by the occupiers. The County Council provides absolutely no service to the house.

A written submission was received on the 11th October, 1994 from Mr. John Smiley of the Valuation Office, on behalf of the respondent.

Mr. Smiley described the premises as an attractive two storey 4-bedroom house erected to the occupier's specifications. He said that his information was that the site was purchased for £15,000 in 1991 and construction cost was £80,000 in 1992.

Mr. Smiley said that one room of the house was used as an office and that he had attributed a rateable valuation to it as follows:-

Office - 131 sq.ft. @ say £20/week	=	£1,040
House - 2,411 sq.ft. @ say £120/week	=	<u>£6,240</u>

£7,280

N.A.V. £7,200 x 0.5% = R.V. £36 (House £31)

Oral Hearing:

At the oral hearing which took place in Galway on the 20th October, 1994 Mr. Finbarr O'Shea appeared. The respondent was represented by Mr. John Smiley of the Valuation Office.

Mr. O'Shea referred to his written submission and pointed out that at the time the Valuer inspected the premises, he, the Valuer, did not seem to realise that the road on which the house was situated was in fact a private road.

In reply to questions, Mr. O'Shea stated that he never saw clients in the study/office and that in fact it was used very little by him and very often by his children.

He submitted that the study/office could not be let from a practical point of view and that while there was a door leading to the outside, there was no planning permission for commercial usage.

Mr. O'Shea's estimate of the rateable valuation of the office was in the region of £1.

Mr. O'Shea also disputed the overall rateable valuation placed on the entire house by the respondent. He disagreed with Mr. Smiley's assessment of rental value and stated that in 1991 he had rented a six bedroom house in Loughrea for the sum of £52.50 per week.

Mr. Smiley submitted that the office was fitted out at the time of his inspection with filing cabinet, two desks, photocopier and a personal computer.

Mr. Smiley went on to say that his assessment of rental value for the premises was reasonable, particularly in view of the fact that, in his opinion, an upper floor flat, with two persons sharing, would achieve a rental in the region of £50 per week.

Mr. Smiley confirmed with Mr. O'Shea that the site had been purchased in 1990 for a sum of £15,000 and that a sum of £80,000 approximately had been expended in construction.

Findings:

The Tribunal notes Mr. O'Shea's evidence in relation to the extra maintenance costs by reason of the fact that the premises are on a private road.

While this in itself might not necessarily affect the rental value of the premises, the Tribunal must have regard to what would seem to be a reasonable rent for premises of this nature in a town like Loughrea.

The only actual evidence of rental values to be achieved in Loughrea is that put forward by Mr. O'Shea in relation to the premises which he rented in 1991. The office, while undeniably used in the course of Mr. O'Shea's business, could not be described as a commercial premises. It does nonetheless have a function which is not entirely domestic and the Tribunal has taken this into account in arriving at its determination.

Taking all of the above into consideration together with the evidence adduced by both parties the Tribunal is of the opinion that the correct rateable valuation of the subject hereditament is £27 and so determines.