

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

**Anthony F. Sheil**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Office at Map Reference 36 Charles Street West, Ward: Inns Quay C, UD: Inns Quay  
County Borough of Dublin

Notification of Revision under Section 3, 1988 Valuation Act

**B E F O R E**

**Tim Cotter - Valuer**

**Deputy Chairman**

**Michael Coghlan - Solicitor**

**Member**

**Patrick Riney - FSCS.MIAVI**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 21ST DAY OF NOVEMBER, 2001**

By Notice of Appeal dated the 25th day of April 2000, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £30 on the above described hereditament.

The grounds of appeal were set out in a document attached to the Notice of Appeal and appended to the judgment as Appendix 1.

The Appeal proceeded by way of oral hearing which took place on the 7<sup>th</sup> day of September, 2001 at the Offices of the Valuation Tribunal, Dublin.

The Appellant was represented by Mr Jerry O'Brien, Solicitor of John C. Walsh & Co. Solicitors. The Respondent was represented by Mr. Brian O'Flynn, District Valuer in the Valuation Office. The Notice Party, Dublin Corporation was represented by Mr Paul Coughlan BL.

A written submission on behalf of the Appellant was received by the Tribunal on the 8th day of August 2001. A written submission prepared by Mr. O'Flynn on behalf of the Respondent was received by the Tribunal on the 24th day of August 2001. A written submission prepared by Mr. Terence O' Keeffe on behalf of the Notice Party was received by the Tribunal on the 22<sup>nd</sup> day of August 2001.

At the oral hearing both Mr. Sheil and Mr O'Flynn gave sworn evidence and adopted their written submissions as being their evidence in chief to the Tribunal. Mr Brian Brady, Acting Senior Staff Officer gave evidence on behalf of the Notice party, Dublin Corporation.

At issue in the appeal was the validity of the revision of the subject premises. Quantum was not at issue.

### **The Property**

The Property comprises a solicitor's offices located at Charles Sts. West off Ormond Quay. The Offices are on the upper floors above the rear entrance to the Legal Eagle Licensed premises. The front entrance to the Legal Eagle is on Chancery Place.

### **Valuation History**

The valuation history of the subject and 1.2 Chancery Place (The Legal Eagle) is set out as follows:

1915	36 Charles Street West (all)	R.V. £15
1915 to 1925	36 Charles Street West (upper)	R.V. £10
1915 to 1925	36 Charles Street West (lower)	included with 1.2
Chancery Street		
1978	36 Charles Street West (upper)	R.V. struck out and
	included with 1.2 Chancery Place, the description of which remained as “Licensed house & shop (inc. lr. part 36 Charles St. West)”	
July 1999	Dublin Corporation list “1.2 Chancery Place (inc. 36 Charles Street West” to “Value Solicitors office on the upper floors for Shiels Solicitors”	
	Dublin Corporation serve notice in accordance with Section 3(a) of the Valuation Act	
	1988 of the application for a revision to the Commissioner on:	
1. Eagle Taverns Ltd.	1.2 Chancery Place, Dublin 7	
2. James Simpson	1.2 Chancery Place, Dublin 7	
3. Shiels Solicitors	36 Charles Street West, Dublin 7	
22 <sup>nd</sup> November 1999	Dublin Corporation serve notice of the determination of the	
	application in accordance with Section 3(b) on the following parties:	
1. James Simpson t/a Eagle Taverns Ltd.	1.2 Chancery Place, Dublin 7	
2. Anthony f. Shields	36 Charles Street West, Dublin 7	
6 <sup>th</sup> December 1999	John C. Walshe & Co Solicitors appeal against the	
	Commissioner’s determination on behalf of Anthony F. Sheil and Margaret Walsh	
	practicing as Sheil Solicitors at 36 Charles Street West.	
7 <sup>th</sup> January 2001	The letter of appeal arrives unsigned and is duly returned by	
	the Valuation Office to the agent for signing.	

**Appellant's Case**

The appellant gave evidence that the section 3 notices received from Dublin Corporation did not refer to his premises but referred to the Legal Eagle. He said that the premises referred to in the notices as ground floor 36 Charles Street and 1/2 Chancery Place did not refer to his property.

He said that the revising valuer who had visited his premises had accepted that there was an error in the description. Arising from this visit the appellant thought that the matter was being referred back to Dublin Corporation. However he next received a notice of the revised ratable valuation. He said that he had been in occupation of the premises since 1986 and that before he took up occupation the premises had been used as an apartment.

**Respondent's Case**

Mr. O'Flynn on behalf of the respondent gave evidence that the Commissioner responded to a revision request dated 9 July 1999, to 'value Solicitors office on the upper floors for Shiel Solicitors'. He said that prior to this revision in 1978, the RV on 36 Charles Street West (upper) was struck out (as domestic) and included with 1/ 2 Chancery Place, the description of which remained as Licensed house & shop (inc. lr. 36 Charles St. West).

**Notice Party Case**

Mr. Brian Brady of Dublin Corporation gave evidence that when the premises were listed in 1998 the third floor had been missed. The Corporation then resubmitted the revision request to the Commissioner in July 1999. When the second notice issued it referred to the parent lot i.e. 1-2 Chancery Place (incl 36 Charles Street), as that was the description of the hereditaments in the list at that time.

**Determination**

The Tribunal has considered the evidence of Mr. Tony Sheil, of Mr. Brian O'Flynn and of Mr. Brian Brady and has noted the content of the of the submissions made on behalf of the applicant by Mr. O'Brien, by Mr. Coughlan B.L for the Corporation and by Mr. O'

Flynn for the Valuation Office. In coming to a determination the Tribunal has taken note of the subject premises and particularly since 1978 when the upper area of 36 Charles Street West was de-rated as domestic accommodation.

It is noted that an issue on quantum does not arise as between the parties.

The appellant has relied upon the contention that no proper notification was received pursuant to Section 3 of the 1988 Valuation Act or alternatively that the notifications as forwarded did not properly describe the subject premises as a candidate for revision.

Mr. Sheil in his evidence has described the receipt of two notices. The first received on the 26th of June 1998 and the second received on the 22nd July 1999. These documents each issued out of the Rates Office of Dublin Corporation when purporting to place the appellant on notice of an intention to revise the rates in respect of premises under occupation by the appellant. The Tribunal has inspected those two documents and notes that the first refers simply to "36 Charles Street West." That description was inaccurate for valuation purposes and it is noted that the Corporation did not pursue the revision in 1998.

Subsequently a fresh notice dated the 22nd of July 1999 did issue to Mr. Sheil when advising that the premises "licensed shop (including lower part of 36 Charles Street West)" had been listed for revision. It is noted that subsequently a Mr. Maloney on behalf of the Valuation Office attended with the appellant for the purposes of measuring the appellant's upstairs premises. On this occasion it is noted that the appellant brought the 1999 notice to the attention of Mr. Maloney. It has been contended that Mr. Maloney acknowledged that the notice did not properly describe the appellant's premises and that he stated that he would seek to investigate the situation and would be in touch with the appellant subsequently. It is noted that the decision to revise proceeded as evidenced by the documentation adduced.

Mr. Sheil contends that the description contained within the notification of 1999 and upon which the Corporation (and subsequently the Valuation Office) acted did not refer to premises occupied by him.

Mr. O' Flynn for the valuation office has explained that as a result of the de-rating of the upper floors as domestic accommodation in 1978 that area became absorbed into the parent lot which included inter alia the pub and shop to rear at ground floor level. Mr. O'Flynn has contended that the property described within the revision notice and within the R2 Form exhibited at appendix four of the commissioners précis comprise inter alia the property occupied by Mr. Sheil as a solicitor's office. He has contended that the Valuation Office in maintaining a valuation list and a list for revision have done everything correctly. However he concedes that at the time of the De-rating of the upstairs premises at 36 Charles Street West same should have been specified within the description of the parent lot as noted on the valuation list retained by the Valuation Office.

Mr. Brady for the Rates Department of Dublin Corporation has contended that the Corporation relied upon the description set out within the valuation list. He went on to explain that it was accepted that difficulties arose when seeking to revise the rateable valuation of the subject premises as a result of a 1998 notice. Accordingly nothing was done further after the issue of that notice until the 1999 notice subsequently issued. Mr. Brady contended that the technical description of the subject premises as set out within the notification of July 1999 covered inter alia Mr. Sheil's offices on the first, second and third floors.

In considering the merits of these various arguments the Tribunal feels that the following points merit emphasis.

Firstly the property described within the 1978 valuation list does not on its face appear to include premises on the first, second and third floors at 36 Charles Street West,

Secondly, if as contended by Mr. O' Flynn, those upper floors were amalgamated with the licensed premises and shop at ground floor level, their description should have been specified within the description of the parent lot.

Thirdly, it is as a result of the failure to accurately describe the premises comprised in the

said lot that such further confusions have arisen.

Fourthly, Mr. Sheil has contended that he was not properly notified of the Corporation's intention to revise the rateable valuation on his office property. However it is clear in the circumstances of this case that there could be no other conclusion taken but that the Corporation intended to revise the valuation of his offices and notwithstanding the vagueness or inaccuracy of the forms delivered.

Fifthly, it has been contended by Mr. Coghlan for the Corporation that as notification is a mandatory feature of proceedings such as these, it is necessary only to show that the occupier of the premises had been so notified. This is not so. For a notification to be valid it must not only be actual but be relevant and accurate to the subject premises. In the present case, the Corporation initially proceeded to send a notification to Mr. Sheil concerning the premises described generally as "36 Charles Street West". That was clearly an inaccurate description of the property occupied by Mr. Sheil and was acknowledged as such by the Corporation in that they failed to take any further proceedings on foot of that initial notification. However at all times during this process Mr. Sheil though aware of his exposure to rateable assessment was not aware of the description retained by the valuation office for his premises, and was therefore not in a position to draw any inference from the notices received other than they did not appear to describe his offices at first, second and third floor levels.

It is thus hardly surprising that Mr. Sheil did not appear to be any the more concerned upon receipt of the second notification in July of 1999 when the premises intended for revision were described as "licensed shop (lower part of 36 Charles Street West)". This description appeared on its face to Mr. Sheil to be an inaccurate description his property or more to the point a description of other property not owned or occupied by him. He has stated in evidence that he brought this to the attention of Mr. Maloney for the Valuation Office when Mr. Maloney came to measure the premises for assessment purposes.

It is noted that even though the Corporation failed to take any action after the initial

notification in June 1998, it did not advise Mr. Sheil of its intention to defer revision. Nor does it appear that Mr. Sheil received any response to his representations to Mr.

Maloney on the issue of the mis-description of the premises. These omissions are unfortunate in this case as clearly the issues raised were preliminary to and certainly pertinent to the revision process.

Had the appellant been notified at first instance that the Corporation intended to apply for a revision of the rate on the premises at first, second and third floors at 36 Charles Street West we doubt that the appellant would have had a subsequent case to make on the issue of notification. However as that description of the premises was not included and as notifications of intention to revise appear to have been issued on a somewhat hap-hazard basis thereafter, the Tribunal is minded to agree with the appellant's contentions in this case and therefore determines that no adequate notification was furnished to the appellant and that the determinations made by the Valuation Office and upon appeal subsequently are therefore invalid.