

Status of Judgment: Draft

Appeal No. VA01/2/027

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

David Cassidy

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop at Lot No. 3 Bachelors Walk, Ward: North City, County Borough of Dublin

B E F O R E

Henry Abbott - Senior Counsel

Chairman

Michael Coghlan - Solicitor

Member

Finian Brannigan - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 26TH DAY OF FEBRUARY, 2002

By Notice of Appeal dated 8th August 2001, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €120.63 (£95). The grounds of appeal as set out in the Notice of Appeal were: "That the valuation is excessive, inequitable and bad in law."

The oral hearing took place in Dublin on the 26th day of November 2001. Mr. Eamonn Halpin a Chartered Surveyor of E. Halpin & Co. appeared for the Appellant and Mr. Frank O'Connor District Valuer, ASCS., MIAVI appeared for the Respondent.

It had been agreed that the decision in relation to the above entitled hereditament would also apply to two other appeals, VA01/2/028 Ashbyhill Enterprises Ltd., and VA01/2/029 Signs Now Limited.

THE EVIDENCE

Mr. Halpin gave evidence and affirmed his précis of evidence, subject to amendments in relation to the figures and descriptions of comparisons which are set out in his amended précis. He also produced a set of photographs showing the subject properties and comparisons. In elaborating on his précis of evidence, Mr. Halpin placed great emphasis on the fact that in his view, there was less pedestrian traffic passing the subject on Bachelors Walk than there was passing down by the Halfpenny Bridge towards Liffey Street and in the general direction of Talbot Street/Henry Street and the Jervis Centre. He dealt with the comparisons and pointed to the Woollen Mills at the junction opposite the Halfpenny Bridge having a lower NAV than the subject. He also availed of a chance to argue that the comparison offered in the Respondent's précis - Budget Travel - was a much more superior premises and that the passing rent probably had been discounted more than the Subject in arriving at the RV/NAV.

Mr. Halpin was cross-examined by Mr. O'Connor and he conceded to Mr. O'Connor that there were bus stops opposite the subject and that a considerable number of people would disembark, thereby contributing significantly to the pedestrian traffic opposite same. Mr. Halpin considered that this, notwithstanding the bus stops, did not generate any significant retail trade comparable to the Liffey Street/Henry Street area. It was also put to him that the Cleary's, O'Connell Street centre of gravity for retail activity would equally cause people to walk down the Quays, past the subject, and thereby create pedestrian trade likely to create retail activity. Mr. Halpin said that his

observations did not back that contention and argued that the areas in which he had offered comparisons, namely the Liffey Street/Talbot Street/Capel Street areas had the advantage of two sided streets, whereas the Liffey had a dampening effect. It was put to Mr. Halpin that the photos of the Concorde comparison, showed under-utilised parking space and Mr. Halpin said the photographs were taken early in the morning and did not represent the real commercial pressure of the area. He conceded that the Woollen Mills was an older building. Mr. O'Connor also introduced the possibility that Budget Travel might have been undervalued and that no statutory presumption as to its correctness applied. Mr. Halpin contested this generally.

Mr. O'Connor gave evidence in accordance with his précis. He insisted that Budget Travel was properly valued, and urged the argument that if Mr. Halpin's contention was correct that it had a higher NAV, by reason of its superior position, then it would be under-valued and its RV would not be a proper valuation. He did not have the details of actual rent or the discounting procedure actually used to allow for the estimation of NAV for the purpose of establishing rateable valuation for Budget Travel.

FINDINGS OF FACT

1. Notwithstanding careful scrutiny by Mr. O'Connor on behalf of the Respondent, the Tribunal finds that the comparisons offered by the Appellant generally are in the higher NAV bracket than the subject.
2. The comparison offered in Temple Bar by the Appellant is in a much different area and not useful as a comparison.
3. The Tribunal is of the view that the only comparison offered by the Respondent which may be of assistance, is that of Budget Travel, as the other comparisons are of the same genre as the subject, although not appealed.
4. No sufficient analysis of the NAV of Budget Travel and the actual passing rents have been offered to the Tribunal by either party.

CONCLUSION

The Tribunal, while conscious of the case made by the Appellant for a reduction in some degree of the rateable valuation of the subject does not find that the case has been made out to effect such a reduction. To make such a reduction, an analysis of Budget Travel would need to have been made. The Tribunal cannot speculate as to why neither party chose to introduce the necessary details in relation to Budget Travel.

Accordingly the Tribunal holds that the Valuation of the Subject should be upheld, but without prejudice to any further revision or appeal in the near future and directs that the valuations resulting from this appeal and the other two appeals, VA01/2/028 Ashbyhill Enterprises Ltd., and VA01/2/029 Signs Now Limited, be recorded without having been changed by appeal.