

Appeal No. VA02/6/029

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

Splashing Ideas

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop at Lot No. 23 (Ground Floor) Monkstown Crescent, Ward: Dun Laoghaire Salthill,
County Dublin

B E F O R E

Fred Devlin - FSCS.FRICS

Deputy Chairperson

Maurice Ahern - Valuer

Member

Joseph Murray - Barrister

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 2ND DAY OF MAY, 2003

By Notice of Appeal dated 13th December 2002, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €168 on the relevant property above described.

The Grounds of Appeal as set out in the Notice of Appeal are that:

"Poor location, no parking for potential customers shop quality a result of investment in quality

No Valuation Certificate was received

No Cert received to assess

Rates are already claimed from owner for this property this is a duplication

Duplication of rates for same building"

This appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal on the 9th April 2003. The Appellant Company was represented by its Managing Director Mr. Albert Crowley and the Respondent by Mr. Damien Curran MRICS, ASCS, B.Sc (Surv) a district valuer with over twenty years experience in the Valuation Office.

Property

The subject property comprises a ground floor of a recently redeveloped two-storey mews building. The first floor accommodation overhead is in office use.

The ground floor is occupied by the appellant company under a 20 year lease from September 2000 at an initial yearly rent of €50,789 (IR£40,000). The lease provides for rent reviews at five yearly intervals. The premises were fitted out by the appellant company at a cost of approximately €100,000 and is used for the sale of garden water equipment and other ornamental garden features and fixtures. At the 2000/2 revision the subject property was assessed at a rateable valuation of €168. No change was made at first appeal stage and it is against this decision that the appeal to this Tribunal now lies.

The Appellant's Evidence

Mr. Crowley having taken the oath said he was not in a position to give valuation evidence. Nonetheless he expressed the view that the rateable valuation of the subject property was excessive. In particular he felt insufficient regard had been given to

- 1) The lack of parking in the vicinity.
- 2) The location of the property on a bend, which adversely affected its visibility.
- 3) Retail activities on Monkstown Crescent were concentrated to that section opposite the church.

Mr. Crowley said he opened for business in late 2001 and on-street car parking was available. Shortly after he opened the Council introduced parking meters and double yellow lines in some areas along Monkstown Crescent. As a result of objections from local residents and others in the area the implementation of the proposed parking restrictions was suspended and indeed the matter is now before the courts. Mr. Crowley said he had written to the Council complaining of the parking problems experienced by his customers and pointed out that his business was

suffering badly as a result. He also asked that the Council provide a parking bay outside his premises in order to facilitate the loading and unloading of merchandise. To date the Council have not acquiesced to his request. He said he had tried to alleviate the difficulty in receiving goods by staying open in the late evening but he had to end this course of action due to the additional costs incurred. Mr. Crowley said that the lack of parking was a major problem due to the nature of his business and in December 2002 he reluctantly came to the conclusion that he could no longer trade in this location and had closed the premises.

Mr. Crowley said that the actual location of the property on the crest of a bend was also a factor in that it was difficult to see the premises when driving towards Dun Laoghaire. He also pointed out that other properties adjoining the subject were either in residential or service use. Retail activity on the Crescent was concentrated at the other end opposite the church some distance away from the subject property.

The Respondent's Evidence

Mr. Damien Curran having taken the oath adopted his précis of evidence which had previously been received by the Tribunal as being his evidence in chief. In evidence Mr. Curran contended for a rateable valuation of €68 calculated as set out below.

Shop	177.78sq. m.	@	€150.33 per sq. m.	=	Net Annual Value	€26,720
Rateable Valuation		@	0.63%	=		€68

In support of his opinion of Net Annual Value Mr. Curran introduced four comparisons details of which are set out in the appendix attached to this judgment. In evidence Mr. Curran said that in arriving at his opinion of Net Annual Value he had regard to the location of the subject property within the Crescent and its size relative to his comparisons. In his opinion parking on the Crescent was not as difficult as Mr. Crowley contended and in any event parking in the vicinity of the subject property was no worse than it was at any of his four comparisons all of which are located on Monkstown Crescent.

Under examination by Mr. Crowley, Mr. Curran agreed that due to the nature of his business the lack of parking could inconvenience his customers due to the heavy nature of the products being purchased. Mr. Curran said that while this may be so, the subject premises were to be valued on

the basis of what rent a hypothetical tenant in the market would be prepared to pay. In his opinion the tone of the list for retail premises on the Crescent was well established and reflected the parking situation on the street. In arriving at his opinion of Net Annual Value he had applied a base rate of €73.35 per sq. m. (as per his comparisons) and made an allowance of 40% for quantum and 5% for location and thus arrived at his figure of €50.33 per sq. m. in respect of the subject property.

Determination

The Tribunal has carefully considered all the evidence and argument adduced by the parties and makes the following findings:

1. Net Annual Value in accordance with rating law and practice is an estimate of the rent a hypothetical tenant might be expected to pay for the subject property having regard to all intrinsic qualities and circumstances which would have a bearing on its value.
2. The Tribunal accepts Mr. Crowley's submission that parking adjacent to the subject property is difficult. The Tribunal also accepts Mr. Curran's submission that the parking problems on the Crescent extends along its entire length and it is no worse at the subject property than elsewhere.
3. The Tribunal accepts Mr. Crowley's evidence that the lack of parking close to his property has adversely affected his business. However the Tribunal is conscious of the fact that the adverse affects of the parking difficulty is exacerbated to some degree by the nature of the products being sold on the premises.
4. The Tribunal accepts Mr. Curran's proposition that the tone of the list for retail premises i.e. €73.35 per sq. m. reflects the parking situation on the Crescent and that parking is equally difficult along its entire length and not specific to any section of the Crescent.
5. The Tribunal accepts Mr. Crowley's evidence that the location of the subject property is inferior to that of Mr. Curran's comparisons. The Tribunal also accepts Mr. Crowley's evidence that most of the properties adjacent to the subject property are either in residential or service use as distinct from retail use and that this should be reflected in its Net Annual Value.

6. Having regard to the above the Tribunal accepts Mr. Curran's allowance of 40% for quantum but considers his allowance of 5% for locational differences to be inadequate and finds that an allowance of around 10% would be more appropriate.

Accordingly therefore the Tribunal determines the Net Annual Value of the subject property to be €151 as set out below.

Shop	177.78sq. m.	@	€135per sq. m.
= say	€24,000		
Rateable Valuation		@	0.63% = €151