

Appeal No. VA10/5/011

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

**Valerie Mitton**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property No. 349243, Clothes Shop at Main Street, Malahide, County Dublin.

**B E F O R E**

**Fred Devlin - FSCS.FRICS**

**Deputy Chairperson**

**Michael F. Lyng - Valuer**

**Member**

**Damian Wallace - QFA, MIPAV, Valuer**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 19TH DAY OF JANUARY, 2011.**

By Notice of Appeal dated the 17th day of July, 2010, the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €36,300 on the above-described relevant property.

The Grounds of Appeal as set out in the Notice of Appeal are attached at Appendix 1 to this judgment.

This appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 7<sup>th</sup> day of October 2010. At the hearing, the appellant appeared on her own behalf and Ms. McGennis BSc (Hons) Real Estate Management, MSc (Hons) Local and Regional Development, MIAVI, a Valuer in the Valuation Office, appeared on behalf of the respondent, the Commissioner of Valuation.

Prior to the commencement of the oral hearing, each party was requested to submit to the Tribunal a précis of the evidence they proposed to produce at the hearing and which was subsequently received in evidence under oath. From the evidence so tendered, and subsequent oral evidence given, the following material facts emerged or are so found.

### **The Subject Property**

The property that is the subject of this appeal is a lock-up retail premises situated on that section of Main Street, Malahide between New Street and Town Yard Lane. This section of Main Street contains 7 retail units which form part of the Malahide Shopping Centre development which was built some 25 to 30 years ago. Four of the retail units are on the left hand side of the main entrance into the supermarket within the centre, whilst the three remaining units including the subject and the Insomnia unit are on the other side. The area of the subject property, which is rectangular in configuration, is 44.52 sq. metres measured on a net internal area basis.

### **Rating History**

As part of the revaluation of all relevant property in the Fingal County Council rating authority area, the net annual value of the subject property was initially assessed at €41,700. Following representations, the net annual value so determined was reduced to €36,300. No change was made following an appeal to the Commissioner of Valuation in accordance with Section 30 of the Valuation Act, 2001 and in due course a further appeal against this decision by the Commissioner was made to the Tribunal under Section 34 of the Act.

### **The Appellant's Evidence**

At the oral hearing, Ms. Mitton said she was the owner and occupier of the subject property since it first opened and which had traded therefrom as a ladies fashion boutique. In the circumstances, she felt she had a good overall knowledge of retailing in Malahide and experience of rental values in the village. In her opinion, the rental value of the property in

September 2005 would have been in the range of €25,000 to €30,000 per annum and most certainly not €36,300 as estimated by the Valuation Office. Ms. Mitton said that her business could not have sustained a rent of €36,300 in 2005 and since that date trading levels had dropped and so too had rental values. Ms. Mitton pointed out that her rates bill for 2008 was €4,200 and for 2010, based on a rateable valuation of €36,300, would now be €5,662, i.e. an increase of 35%. Such an increase, she felt, was excessive given current economic and trading circumstances.

Under cross-examination by Ms. McGennis, Ms. Mitton said that retail trends had changed in Malahide in recent times. Whereas, the Diamond/Main Street, used to be the best location, this was no longer the case – the new development at the Green, which consisted of a supermarket and a number of retail units, was just as good. One of the problems in Malahide, Ms. Mitton said was the lack of on-street car-parking, particularly in the vicinity of Main Street. Any parking there was, was metered and this was a major drawback from a retailing point of view.

### **The Respondent's Evidence**

Ms. McGennis, having taken the oath, adopted her written précis of evidence and valuation, copies of which had been received by the Tribunal and the appellant, as being her evidence-in-chief. In her evidence, Ms. McGennis estimated a net annual value of the subject property in accordance with Section 48(3) of the Valuation Act, 2001 as being €36,300, calculated as set out below:-

Block 1: Retail Zone A :	28.12 sq. metres @ €1,000 per sq. metre	= €28,120
Block 1: Retail Zone B:	16.40 sq. metres @ €500 per sq. metre	= <u>€ 8,200</u>
Total NAV:		€36,320
Valuation – Rounded to	€36,300	

In support of her estimate of net annual value, Ms. McGennis introduced five comparisons, details of which are set out in Appendix 2 attached to this judgment. All of Ms. McGennis's comparisons are located in the same parade as the subject property and comparison no. 2, the "Insomnia" unit, is two doors away from the subject unit at the corner with Town Yard Lane. Ms. McGennis in her evidence said that as part of the revaluation process the Valuation Office had carried out an analysis of all available market information in order to establish

appropriate valuation levels for retail premises in the village of Malahide. In her opinion, the prime retail location in the village was Main Street and, in particular, that section between the Diamond and Town Yard Lane, which included the subject property. Initially, all the units on this parade were valued at a uniform Zone A rate of €1,150 per sq. metre. After the representation stage, however, it was decided to value the units between the Diamond and the mall entrance to the supermarket at a Zone A rate of €1,100 per sq. metre and those on the other side of the mall entrance, and extending to Town Yard Lane at a Zone A rate of €1,000 per sq. metre. In a further refinement to this pattern a 15% downward adjustment was applied to the “Insomnia” unit at appeal stage to reflect its “configuration/location.”

When asked by the Tribunal to elaborate further on the valuation scheme and Zone A rates that were applied to retail premises on Main Street, Ms. McGennis outlined these to be as follows:

From Old Street to The Diamond

Zone A Rate €1,000 to €1,100 per sq. metre with those units closer to The Diamond at the higher level.

Units on the other side were valued at a Zone A rate of €850 per sq. metre and the corner unit at the Diamond at a Zone A rate of €950 per sq. metre.

From The Diamond to Town Yard Lane

As stated elsewhere, the units were valued at between €1,100 and €1,000 per sq. metre.

Units on the opposite side were valued at a Zone A rate of €950 per sq. metre.

Retail Units on New Street and Church Road adjacent to the Diamond were valued at a Zone A rate of between €850 and €700 per sq. metre depending upon location.

When further questioned about the 15% allowance made in respect of the “Insomnia” unit, which occupied a corner location at the top of Town Yard Lane, Ms. McGennis felt the property derived no benefit from the return frontage as it was above the pavement level of Town Yard Lane. She did, however, concede that the unit was highly visible to those approaching The Diamond and that the external space fronting on to Town Yard Lane was used for dining purposes. Ms. McGennis said the internal configuration was somewhat irregular and this was a factor taken into account in making the 15% allowance as previously stated. Ms. McGennis confirmed that it was standard valuation practice to apply an upward adjustment to retail premises which have a return frontage and that this was the first occasion, in her experience, where the opposite had occurred.

Under cross-examination by Ms. Mitton, Ms. McGennis agreed that “Insomnia” made good use of this space outside fronting on to Town Yard Lane. She did not, however, agree that the unit had a prominent profile as the frontage on to Main Street was angled backwards and made the property not visible when approaching it from the Diamond.

### **Findings**

The Tribunal has carefully considered all the evidence and arguments adduced by the parties and finds as follows:

1. It is clear from Ms. McGennis’s evidence that the Valuation Office has given a lot of consideration to arriving at a valuation scheme for retail premises in Malahide and, in particular, those located on Main Street. That said, however, the treatment of the Insomnia unit is difficult to understand having regard to the fact that it has the benefit of a return frontage and enjoys a good profile onto Town Yard Lane and Main Street.
2. It is evident that Ms. Mitton is an experienced retailer and she put forward her opinions and arguments in a clear and balanced manner. However, the rental evidence in relation to the comparisons introduced by Ms. McGennis supported the valuation of €6,300 placed on the subject property.
3. The fact that this is the only business premises in Malahide which has been the subject of an appeal to the Valuation Tribunal indicates that rate payers in the village are satisfied that the outcome of the revaluation process has resulted in the

compilation of a Valuation List which fairly reflects the relative values of relevant properties in the village.

4. The Tribunal notes Ms. Mitton's concern that the revaluation has lead to a significant increase in rates liability. However, it has to be said that it is not uncommon for some categories of properties to fare less well than others following a revaluation. Indeed, one of the main arguments for regular revaluations as proposed under the Valuation Act, 2001 is to ensure that market changes in relative values within and between categories of properties over time is reflected in the Valuation List.
5. Under Rating Law, the onus of proving that the valuation of a relevant property appearing on the Valuation List is incorrect rests with the appellant. In the circumstances of this appellant, the appellant has failed to introduce evidence that the valuation of €36,300 placed on the subject premises is unfair or inequitable.

### **Determination**

Having regard to the above, the Tribunal affirms the valuation of €36,300.

And the Tribunal so determines.