

Appeal No. VA11/5/076

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

**Dermot McCluskey**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property No. 526175, Hairdressing Salon at 50 George's Street Upper, Dun Laoghaire, County Dublin.

**B E F O R E**

**John F Kerr - BBS, FSCSI, FRICS, ACI Arb**

**Deputy Chairperson**

**Fiona Gallagher - BL**

**Member**

**Michael Connellan Jr - Solicitor**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 10TH DAY OF JANUARY, 2012**

By Notice of Appeal dated the 9th day of July, 2011 the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €22,400 on the above described relevant property.

The grounds of Appeal as set out in the Notice of Appeal are:

"On the basis that the RV as assessed is excessive & inequitable". "The subject is very old fashioned & within a part of the street where values have always been the lowest. The Commissioner has over estimated its relative value on a sustainable one year with another basis in accordance with the Valuation Act 2001."

The appeal proceeded by way of an oral hearing held at the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on 24<sup>th</sup> day of October 2011. At the hearing the appellant was represented by Mr. Eamonn Halpin B.Sc (Surveying), ASCS, MRICS, MIAVI and the respondent was represented by Mr. Paul Ogbebor, B.Eng. (Hons) Civil Engineering, a Valuer in the Valuation Office.

### **Location**

The subject property is located at 50 Georges Street Upper, Dun Laoghaire, Co. Dublin, approximately 14km from Dublin City Centre.

### **The Property Concerned**

The subject property comprises a ground floor retail unit with an office/store room to the rear of a mid-terrace two storey building. It is currently operating as a hairdresser. External frontage is approximately 4.4m.

The agreed accommodation, measured on a Net Internal Area (NIA) basis is as follows:

Retail Zone A	26.04 sq. metres
Retail Zone B	5.7 sq. metres
Office	12 sq. metres

### **Tenure**

The subject property is held freehold.

### **Rating History**

The subject was listed for revaluation as part of the revaluation of all rateable properties in the Dun Laoghaire-Rathdown rating authority area. The relevant valuation date, as per the Valuation Order is 30<sup>th</sup> September 2005.

A proposed Valuation Certificate was issued on 15<sup>th</sup> June 2010 with a valuation of €22,400. Following representations lodged by the appellant on 8<sup>th</sup> July 2010, the valuation remained unchanged. The Valuation Certificate issued on 10<sup>th</sup> December 2010 with a valuation of €22,400. An appeal was lodged by the appellant to the Commissioner of Valuation on 8<sup>th</sup> February 2011, which appeal was rejected and the valuation was unchanged. The appellant appealed against that decision to the Tribunal by Notice of Appeal dated 9<sup>th</sup> July 2011.

## **The Issue**

Quantum.

## **The Appellant's Evidence**

Mr. Eamonn Halpin, having taken the oath, adopted his written précis and valuation, which had previously been received by the Tribunal and the respondent, as his evidence-in-chief. Mr. Halpin made a number of points which he asked the Tribunal to consider in assessing the Net Annual Value (NAV) of the subject property:

1. He stated that the location of the subject property is secondary or tertiary, away from the commercial and retail centre of Dun Laoghaire, with the block of retail units in which the subject is located cut off from the prime retail area by office and residential units. As a result Mr. Halpin stated there is far less footfall and lower rents in the area than compared with properties nearer to Dun Laoghaire Shopping Centre.
2. Mr. Halpin stated that the subject was an old fashioned, dated property and that the rear office/store in particular was of a very poor standard. This back office/store is not on the same floor level as the rest of the accommodation, but is accessed by going up three steps with a solid wall in between, which are disadvantages in Mr. Halpin's opinion. He also stated that there is very little natural light in the office/store and that it would not be suitable for retail accommodation.
3. Mr. Halpin noted that the subject property is very small with small Zone A & B areas, whereas most of the comparisons used by the respondent included a Zone A, B & C and in some cases a balance outside this.
4. Mr. Halpin stated that prime units in Georges Street Upper were valued by the respondent at a rate of €850 per sq. metre. Zone A, whereas the subject property was valued at a rate of €650 per sq. metre Zone A. In Mr. Halpin's view, the value placed on the subject by the respondent in comparison to the prime units is not sufficient to reflect the nature of the street as a whole or the rents achievable at the different ends of the street.
5. Mr. Halpin asserted that it was unsustainable to suggest that the hypothetical tenant would pay a higher Zone A rent for the subject property (€650 per sq. metre) than for units at the end of Georges Street Lower, which are geographically closer to the Dun Laoghaire and Bloomfields Shopping Centres and the prime areas of the town and

which in Mr. Halpin's view are in a better location than the subject. Such units are valued at a Zone A rate of €500 per sq. metre.

6. In Mr. Halpin's view, the subject property falls at the lowest end of the spectrum of values in Dun Laoghaire.

Mr. Halpin contended for a Net Annual Value of €14,000 calculated as follows:

Retail Zone A	26.04 sq. metres	@ €450 per sq. metre =	€11,718
Retail Zone B	5.7 sq. metres	@ €225 per sq. metre =	€ 1,283
Office	12 sq. metres	@ €80 per sq. metre =	<u>€ 960</u>
NAV			€13,961
Say €14,000			

In support of his contention of NAV, Mr. Halpin submitted details of 6 comparisons as follows:

1) For Floors, 114A Georges St. Lower, Dun Laoghaire

This property was valued at a Zone A rate of €500 per sq. metre with a store valued at €100 per sq. metre, giving a total NAV of €45,400. It is currently under appeal to the Tribunal. Mr. Halpin stated that this unit is located geographically closer to the retail centre of Dun Laoghaire than the subject, but is still at the periphery of the main retail area. The property is let and Mr. Halpin stated that there was a 6 month rent free period, with an initial rent of €9,000 per annum, rising to €19,000 per annum and subsequently to €21,000 per annum. In his view, if this rent was backdated to 2005, it would be equivalent to a rent of €26,000 or €28,000 per annum.

2) Facet Jewellers, 24-25A Georges St. Lower, Dun Laoghaire

As with comparison 1, this property was also valued at a Zone A rate of €500 per sq. metre. and is the subject of an appeal to the Tribunal. Offices within the property are valued at a rate of €250 per sq. metre. with a workshop valued at €100 per sq. metre. Mr. Halpin stated that it is also located closer to the retail centre of the village than the subject.

3) Zip Yard, 59 Georges St. Upper, Dun Laoghaire

This unit is situated in the same block of shops as the subject property. It is valued at a Zone A rate of €650 per sq. metre, with offices at a rate of €300 per sq. metre and a workshop at

€100 per sq. metre, resulting in a total NAV of €14,920. In Mr. Halpin's view this property would command broadly the same rent as the subject, although it has a different configuration. He felt that it was a comparable property to the subject, but yet had a lower NAV. This along with Comparison 4, Mr. Halpin stated are his prime comparisons.

4) Property No. 2164161

This is a former tile showroom, situated across the street from the subject. The NAV on this property is €27,900 and it is valued at a Zone A rate of €650 per sq. metre. Mr. Halpin stated that the property is currently to let at a rent of €28,000 per annum. In his view, this property is at least twice as valuable as the subject property, with a retail area of 118m versus 31.11m in the subject and the benefit of two car parking spaces and a loading area to the rear. However, there is only a small difference between the NAV on this property and the subject, which Mr. Halpin asserted does not support the respondent's approach to valuing the subject.

5) Property No. 526176

This is a room at the rear of the subject property, which is assessed separately and valued at a rate of €100 per sq. metre. Mr. Halpin stated that he had submitted this property to illustrate the value of the office/store in the subject, which is in a similarly moderate condition, with poor light.

6) Berry Hair Salon, 46 Georges St. Upper, Dun Laoghaire

Mr. Halpin did not have details of the breakdown of the NAV on this property, which is €31,000, but stated that he understood that it was valued at a Zone A rate of €650 per sq. metre. He said that it is a better unit than the subject property, situated somewhat closer to the town centre.

In response to questioning from the Tribunal, Mr. Halpin stated that if you apply a rigid zoning model to the subject property, it throws up an anomaly of an extraordinary level, perhaps because it is so small. It has lead to much larger properties being assessed at only marginally higher NAV's. He submitted that no allowance had been made for the subject's age, structure and old-fashioned condition, that the respondent's comparisons were not comparable and that the level of €650 per sq. metre. Zone A was too high and had not been tested on appeal.

### Respondent's Evidence

Mr. Paul Ogbebor having taken the oath, adopted his written précis and valuation, which had previously been received by the Tribunal and the appellant, as his evidence-in-chief. Mr. Ogbebor amended his valuation slightly, to reflect a change to the agreed accommodation and a 5% frontage to depth ratio that should have been applied. He contended for a NAV of €21,440 broken down as follows:

Retail Zone A	26.04 sq. metres	@ €650 per sq. metre =	€16,926.00
Retail Zone B	5.7 sq. metres	@ €325 per sq. metre =	€ 1,852.50
Office	12 sq. metres	@ €300 per sq. metre =	€ 3,600.00
Less 5% Frontage to Depth Allowance			= € 939.00
NAV			€21,439.50
Say €21,440			

Mr. Ogbebor submitted three comparisons, all located on Georges Street Upper and all valued at a rate of €650 per sq. metre Zone A as follows:

1) 44 Georges St. Upper, Dun Laoghaire Carpets Ltd.

Mr. Ogbebor stated that this property was his prime comparison. It is located close to the subject property and contains an office which is also valued at €300 per sq. metre, like the subject.

2) 65 Georges St. Upper, Dun Laoghaire Pharmacy

Mr. Ogbebor stated that this property is also located close to the subject, near to the junction of Georges Street Upper and Lower Glenageary Road. There is a store in the property valued at a rate of €50 per sq. metre. A 5% loading was added to the valuation due to the favourable frontage to depth ratio of the unit.

3) 67 Georges St. Upper, Snap Printing

This property was the subject of a first appeal, at which the valuation was unchanged. It also contains a store valued at a rate of €50 per sq. metre.

Mr. Ogbebor stated that the level of €650 per sq. metre. Zone A that was applied to the area of Georges Street Upper where the subject is located was based on market analysis. He stated that level had been widely accepted by occupiers in this area and that the subject was the first

property appealed to the Tribunal. Mr. Ogbebor said that only two Zone A levels had been applied to the street, either ₦850 per sq. metre or ₦650 per sq. metre, as the market analysis had shown two different rental levels. He contended that his valuation was fair, that his comparisons reflected the market situation in the area and that he had also given a 5% allowance to the subject to reflect the poor frontage to depth ratio.

In relation to the office/store Mr. Ogbebor stated that on inspection of the property he was of the view that it was an office rather than a store. He contended that the office in his Comparison 1 had no suspended ceilings and was of the same standard as the subject, although better maintained. He differentiated the stores in his Comparisons 2 and 3, stating that they had no natural light, contained just shelves on the walls and were clearly being used for storage, whereas the subject had a window with natural light coming through it.

### **Cross-Examination**

It was put to Mr. Ogbebor under cross-examination that at least three or four shops in the block in which the subject was located were under appeal to the Tribunal. He was asked why he did not select the adjoining units as comparisons and replied that he wanted to reflect the true picture by selecting units down the road and on the opposite side of the road to the subject. Mr. Ogbebor refused to accept that the subject was inferior to the appellant's Comparison 4. He admitted that that comparison had a bigger floor area, but contended that most of this was in Zone C or the remainder and so was less valuable. It was also put to Mr. Ogbebor that his first two comparisons had recently been renovated and so too probably was the third, whereas the subject was old and unimproved. He replied that the subject may not be of the same quality as those comparisons, but it was still capable of beneficial occupation.

### **Findings**

1. The statutory basis of valuation for properties on revaluation is set down in Section 48 of the Valuation Act 2001, wherein at subsection 3, the Net Annual Value of a property is defined as, *"the rent for which, one year with another, the property might, in its actual state, be reasonably expected to let from year to year, on the assumption that the probable average annual cost of repairs, insurance and other expenses (if any) that would be necessary to maintain the property in that state, and all rates and other taxes and charges (if any) payable by or under any enactment in respect of the property, are borne by the tenant"*.

2. It is accepted that the subject property is located in a moderate retail location within Dun Laoghaire, somewhat cut off from the main retail centre of the town by intervening office and residential units, which have the effect of reducing footfall in the vicinity.
3. The value of €650 per sq. metre placed on properties in the vicinity of the subject property by the respondent has not been established on foot of any appeal and the emerging tone within the area has not been fully settled following the revaluation exercise.
4. The subject property is an old-fashioned, un-modernised premises and is in an inferior condition to the comparisons cited by the parties, in particular compared with the comparisons put forward by the respondent, two of which, possibly even the three, have been recently modernised. Clearly the hypothetical tenant would not bid the same for an old-fashioned property versus a recently modernised one and the value of such a property would accordingly be less.
5. The office/store at the rear of the property is in a particularly poor condition, with limited natural light. The photographs submitted by Mr. Halpin show that this space cannot in reality be categorised as an office and is being used for storage. In its current state, it is difficult to see any other usage. This space is further disadvantaged by being at a higher floor level than the rest of the premises. The rate of €300 per sq. metre affixed by the respondent on this space is totally unrealistic, having regard to its limitations. Storage space in the comparison properties cited before the Tribunal is valued at a rate of €50 per sq. metre, with workshops at a rate of €100 per sq. metre. The Tribunal is of the view that a rate of €80 per sq. metre, as contended for by Mr. Halpin is appropriate.

### **Determination**

Having regard to the foregoing the Tribunal determines that the Net Annual Value of the property is as follows:

Retail Zone A	26.04 sq.m. @ €600 per sq. metre	=	€15,624
Retail Zone B	5.7 sq.m. @ €300 per sq. metre	=	€ 1,710
Office	12 sq.m. @ €80 per sq. metre	=	<u>€ 960</u>
			€18,294
Less 5% Frontage to Depth Ratio			<u>€ 867</u>
Total			€17,427



Say NAV €17,400

And the Tribunal so determines.