

Appeal No. VA15/4/041

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

Mr Eihab Elsir

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In Relation to the Issue of Quantum of Valuation in Respect of:

Property No. 5006598, Retail (Shops) ,Unit D, Trinity Central, Pearse Street, County Borough of Dublin.

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 30TH DAY OF JANUARY, 2017

BEFORE:

Barry Smyth- FRICS, FSCSI, MCI, Arb
David Gill - FSCSI, FRICS, FCI Arb
Dairine Mac Fadden- Solicitor

Deputy Chairperson
Member
Member

By Notice of Appeal received on the 27th day of November, 2015 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a net annual value of €38,000 on the above described relevant property on the grounds as set out in the Notice of Appeal as follows:

"The valuation is incorrect because it is too much according to the valuations in the area."

The Tribunal, having examined the particulars of the property the subject of this appeal; having confirmed its valuation history; having examined and considered the written evidence and having heard the oral evidence on the 17th day of October, 2016 adduced before us by Mr. Elsir, the Appellant, who effectively contended for a net annual value of approx. €16,400 (see below) and Mr. John O'Brien on behalf of the Respondent to the appeal.

Appellant's Case

Mr Elsir affirmed and adopted his precis as his evidence in chief.

Neither in his precis nor in his oral evidence did Mr Elsir provide an estimate of the net annual value but he stated that he took the view when taking the premises that his rates liability would be similar to the neighbouring DG Coffee shop which pays €4,200 per annum in rates thus implying a Net Annual Value of approximately €16,400.

He stated that the other occupiers in the neighbourhood were big companies with large incomes and that the system should help start-up businesses.

He confirmed that the outside area to the front was included in his lease and that he had been told at the commencement of the lease that he could use the tiled area in front of the premises. There was no plan or map with the lease. He confirmed that the service charge was €325 per month i.e. €3,900 per annum.

In summing up, Mr Elsir stated that it had taken seven months to open the shop and that the entrance to the railway station from Pearse Street had not opened until 1 year and 1 month after the date of lease commencement. The lease restricts the user to coffee shop. He stated that he had spent €100,000 on the fit out.

Respondent's Case

Mr O'Brien, having taken the oath adopted his precis as his evidence in chief. Mr O'Brien accepted that the outside area is in the lease and is not from Dublin City Council. He provided a number of comparisons of adjoining premises with the Net Annual Value calculated at €500 per M² Zone A and similar Zone A figures in other locations. On questioning from the tribunal he accepted that the passing rent of €37,000 per annum allowing for 1 year rent free was equivalent to €29,600 per annum.

DETERMINATION:

The Tribunal having considered the evidence determines the net annual value at €35,500 (Reduction).

This is calculated as follows:

Zone A	42.14 M ² at €500 per M ²
Zone B	44.59 M ² at €250 per M ²
Zone C	23.41 M ² at €125 per M ²
Remainder	6.58 M ² at €62.50 per M ²
Rights of street furniture	Nil
Total	€35,555
Say	€35,500 (Thirty Five Thousand Five Hundred Euro)

The reasons for this determination are as follows:

1) This property valuation falls to be determined under section 49 of the Valuation Act 2001 which provides that the determination shall be made by reference to the values, as appearing on the valuation list relating to the same rating authority area as the property is situated in, of other properties comparable to that property. This is commonly called “the tone of the list” and is intended to provide for equity between rate payers.

2) It follows that the immediately neighbouring properties are obviously the best guide to the appropriate valuation for this property.

3) Unit C Trinity Central, Pearse Street, Ramisko Ltd was determined at €500 per M² Zone A and there were no representations in relation to this and neither was it appealed.

Unit D Trinity Central, Pearse Street, DHL Express Ireland Ltd., was determined at €500 per m² Zone A and there were no representations or appeal.

The Tesco Unit, Trinity Central, Pearse Street was determined at €500 per M² Zone A. Representations to the Valuation Office on behalf of the rate payer and while amendments were made to the overall rateable valuation, the Zone A was affirmed at €500 per M². This was not appealed.

The Tribunal does not consider Hanover Quay comparable with the subject location and neither does it put much weight on the Centra unit at 97-98 Pearse Street at €400 per M² Zone A which is bigger and less well located.

4) The onus is on the Appellant to prove that the proposed Net Annual Value is incorrect and in this instance that has not been done. The Appellant provided only one comparison which comparison in the view of the Tribunal is outweighed by the immediately neighbouring properties’ Net Annual Values.

5) It is important to note that the Tribunal and the Valuation Office are determining the value of the premises and not the business.

And the Tribunal so determines.