

Appeal No. VA89/0/172

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

Continental Fashion (Importers) Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Lot 3b Carrickbrennan Road, Monkstown, Co. Dublin

B E F O R E

Hugh J O'Flaherty

S.C. Chairman

Mary Devins

Solicitor

Brian O'Farrell

Valuer

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 20TH DAY OF NOVEMBER, 1989**

By notice of appeal dated the 15th day of August 1989, the appellant appealed against the determination of the respondent fixing the rateable valuation of the above described hereditament at £50.00.

The property consists of offices on part of the ground floor and first floor of a three storey building which was previously used as residential accommodation. The building has been extensively renovated and modernised and the ground and first floors have been converted into offices and store rooms. There is a residential flat on the second floor which is not included in this appeal.

The property is located on the south side of Carrickbrennan Road, Monkstown, County Dublin, a short distance away from Dunlaoghaire.

In 1988 the property was listed for revision to value new developments and change to offices. As a result of this revision the property was divided into four separate hereditaments and valued as follows:-

- | | | |
|-----|--|---------------|
| (1) | Lot 3a - offices (gr. fl. and 1st fl.) | - R.V. £55.00 |
| (2) | Lot 3b - offices (gr. fl. and 1st fl.) | - R.V. £50.00 |
| (3) | Lot 3c - flat (2nd fl.) | - R.V. £25.00 |
| (4) | Lot 3d - house and garden | - R.V. £33.00 |

Lots 3a and 3b were appealed to the Commissioner of Valuation and following inspection no change was made in the valuation.

At the oral hearing which was held on the 16th October, 1989 Mr Desmond J. Boyle, Chartered Valuation Surveyor represented the appellant. He referred to his written submission dated 10th

October, 1989 and pointed out that the single main point at issue was the net annual value of the property. He did not dispute the percentage figure used by Mr Tom Cuddihy, Valuer for the Commissioner of Valuation, to arrive at the rateable valuation.

Mr Boyle stated that the actual rent paid by the occupier company was not an "arms length open market transaction", since the owner of the property is the managing director of the occupier company. He pointed out that it was not uncommon in such circumstances for an inflated rent to be paid for various tax and associated reasons.

Mr Boyle estimated that a true rental value for the first floor offices would be in the region of £5,500.00 per annum and that a fair rateable valuation would be £37.00. He offered certain comparisons to show the alleged discrepancies between his estimated net annual value and resultant rateable valuation of the subject property and those of comparable properties. These comparisons are attached hereto as Appendix "A".

Mr Tom Cuddihy, B.Agr.Sc., District Valuer in the Valuation Office, appeared at the oral hearing and elaborated on his written submission dated 11th October, 1989.

He agreed with Mr Boyle that the only real point at issue was the net annual value of the subject property. He made the point that the actual rent being paid by the occupier company was comparable to that being paid in similar, nearby properties. In particular he referred to 111a and 111b Monkstown Road, Monkstown and details of these comparisons are appended hereto as Appendix "B".

Mr Cuddihy made the point that it would be unwise to look behind the actual rent being paid by a commercial property of this nature to arrive at an estimated figure.

Referring to the comparisons offered by Mr Boyle, Mr Cuddihy provided the Tribunal with an analysis of these properties showing that on a breakdown of rent per sq. ft., the rent payable on the subject property was on par with these. In the same analysis Mr Cuddihy pointed out that the ratio of rateable valuation to net annual value used by him, viz .55% was comparable and indeed favourable to that used in the comparable properties. Mr Cuddihy's analysis is attached hereto as Appendix "C".

The Tribunal takes note of Mr Boyle's evidence that the rent being paid is not an "arms length transaction" and that a lease from year to year would not be normal for this type of property.

However, taking into account the nature of these premises and the comparative evidence offered by both parties the Tribunal must have regard to the statutory requirements in relation to "like premises" and the actual rent being paid by the occupier, taking one year with another.

In all the circumstances, therefore, the Tribunal does not find that there is any case to be made for a reduction in rateable valuation and, accordingly, the determination of the Commissioner is affirmed.

