

Appeal No. VA92/1/009

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

Conoco (Ireland) Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Filling station at Unit 39, Nutgrove Shopping Centre, Churchtown, Nutgrove, Co. Dublin
Quantum - Relevant comparisons

B E F O R E
Mary Devins

Solicitor (Acting Chairman)

Brian O'Farrell

Valuer

Padraig Connellan

Solicitor

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 25TH DAY OF MAY, 1992

By notice of appeal dated the 31st day of January, 1992, the appellants appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £190 on the above described hereditament.

LOCATION & DESCRIPTION

The subject property is situated on the east side of a feeder road connection Barton Road East with Nutgrove Avenue and opposite Loretto Park, occupying a central position between the entrance and exit points at Nutgrove Shopping Centre, approximately five miles south of the city centre.

The general surrounding area is mixed in character with a large concentration of high density of Local Authority Housing, Public Playing Fields, Industrial and Retail Warehouse Premises and Modern Spec. Built Dwelling-houses, the majority of which are owner occupied.

The subject premises occupies portion of the lands which formally comprise section of Lamb Brothers Fruit Farm.

Comprising a modern self-service petrol filling station occupying an almost regular shaped and generally sloping site, variously bounded by landscape reservations with pre-cast concrete kerb stones and four ingress and egress points.

The site is for the most part surfaced in concrete and tarmacadam and upon which stands a detached kiosk, steel framed canopy with illuminated side panels and five pump islands.

The kiosk is of traditional construction with concrete block walls, solid floor, aluminium framed casement windows and flat parapeted PVC sheeted roof on timber supports. The building is sub-divided to provide shop, office, toilet, tea station and compressor room. The external elevations are finished in pointed brickwork outer-leaf.

The station has a frontage of 114 feet (34.7 metres) and a return frontage of circa 103 feet (31.4 metres).

One illuminated I.D. and price sign is located on the grass verge abutting the main thoroughfare.

VALUATION HISTORY

The filling station was initially rated in 1984 at £100. At 1984 first appeal the valuation was reduced to £80. In 1990 the entire Shopping Centre was revalued and the R.V. of the subject property was increased to R.V. £115. At appeal stage this figure was increased to R.V. £190. It is against this determination of the Commissioner of Valuation that this appeal lies with the Tribunal.

ORAL HEARING

At the oral hearing which took place in Dublin on the 29th April, 1992, Mr. John Elliott of Messrs Elliott & Fitzgerald appeared on behalf of the appellant. The respondent was represented by Mr. Patrick Berkery.

Mr. Elliott referred to the comparisons appended to his written submission dated 1st April, 1992 and stated that his estimate of R.V. at £94 was based on said comparisons all of which were similar to the subject in function and most of which were open market transactions. He pointed out that Mr. Berkery's estimate of R.V. at £190, on the other hand, represented a considerable increase on the revision figure and was based on the R.V.'s of units in the adjoining Shopping Centre. Mr. Elliott stressed that these units were obviously not true comparisons since they and the subject premises did not have a similar function. He said that the only reason for the increase in valuation of the subject was that the R.V. of the shop units in the Centre had been increased and that this line of reasoning was invalid.

Mr. Elliott said that his estimate of rental value of throughput at 2.3p was based on his experience as a valuer and on his particular knowledge of petrol stations. His overall estimate of adjusted N.A.V. was in the region of £14,900 resulting in a Rateable Valuation of £94.00.

Mr. Berkery referred to his written submission dated 14th April, 1992 and further stated that, in his opinion, a company owned petrol station might well have a higher N.A.V. than one run by a tenant. In estimating the N.A.V. of the subject premises, Mr. Berkery stated that he took into account the N.A.V.'s of shop units in the Nutgrove Shopping Centre together with certain comparisons referred to in his written submission. He confirmed, however, that in the absence of "compelling evidence on the letting values of other filling stations", he relied heavily on the rent levels of the units in the adjacent Nutgrove Shopping Centre. Using the latter as comparisons, therefore, Mr. Berkery estimated the N.A.V. of the subject at £30,000 resulting in a Rateable Valuation of £190.

DETERMINATION

In reaching its decision the Tribunal is particularly mindful of the provisions of Section 5 subsections 1 and 2 of the Valuation Act, 1986 and of Mr. Justice Barron's interpretation thereof in the I.M.I. judgment (VA/88/101).

In written and oral evidence Mr. Berkery has confirmed that he increased the R.V. of the subject premises because it was out of line with the R.V.'s of units in the adjacent Shopping Centre. These units are patently not similar to the subject in function or use. A petrol station has a distinct and unique function, quite different from retail units in a shopping centre. The only feature common to the subject and the units in the Shopping Centre is location.

The Tribunal is of the opinion that Mr. Berkery's method of arriving at a Rateable Valuation has been erroneous in this instance. In the absence of other valid and convincing evidence

the Tribunal has accepted the revision figure as the best comparable evidence and determines that the correct R.V. of the subject hereditament is £115.