

Appeal No. VA92/1/022

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

Luke Griffin

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop (ground floor) at Unit 59 Donaghmede Shopping Centre, Grange C Ward, County
Borough of Dublin
Quantum - Passing rent

B E F O R E

Padraig Connellan

Solicitor (Acting Chairman)

Paul Butler

S.C.

Brian O'Farrell

Valuer

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

By notice of appeal dated the 13th day of February, 1992, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation on the above described hereditaments at £76.00.

The grounds of appeal as set out in the Notice of Appeal are that the determination is too high and on general grounds.

THE PROPERTY

The subject property consists of a shop situated on the ground floor in the Donaghmede Shopping Centre and is similar to the other 65 units in the complex. The subject property, "Greenstock" a florists, was first valued in 1982 when a rateable valuation of £50 was placed on the premises. Following the 1990 revision the rateable valuation was increased to £80 and at 1st appeal stage it was agreed with Appellant's agent at £76. It is against this amount that the appeal lies with the Tribunal.

WRITTEN SUBMISSIONS

A written submission dated the 24th April, 1992 was received from the Appellant. In this Mr. Griffin said that the rent on which the valuation is based is not realistic. He said that the rent on the unit is higher than what was current in 1988 and that it has been discounted in several ways over the period. Mr. Griffin said that the level of trade has deteriorated considerably over the last ten years particularly on a "passing the door" basis.

A written submission was received on the 23rd April, 1992 from Mr. Philip Colgan, District Valuer in the Valuation Office on behalf of the Respondent. In this Mr. Colgan commented on the grounds of appeal and said that Mr. Adrian Kelly of Harrington Bannon were agents for the Appellant at first appeal and as a result of discussions between Mr. Colgan and Mr. Kelly it was agreed that the rateable valuation on the subject be reduced from £80 to £76. He said that it is obvious that Mr. Griffin is not happy with this agreement. He said that in the current appeal programme he dealt with 30 appeals in Donaghmede Shopping Centre all of which were represented by a number of professional agents including Harrington Bannon. He said that following protracted negotiations concerning this Shopping Centre and neighbouring Shopping Centres in Kilbarrack, Edenmore and Northside Shopping Centre with the agents it was agreed that the ratio of rateable valuation to Net Annual Value would be .63%. He said that in the case of the subject he agreed a Net Annual Value of £12,000 based on a passing rent of £13,000 per

annum. He said that in the case of all the other units in the Shopping Centre, Net Annual Values based on the passing rents were agreed. Mr. Colgan set out his calculation of rateable valuation as follows:-

Net Area of Shop	839 sq ft
Annual Rent Passing	£13,000 p.a. from 1986
	5 year rent reviews

N.A.V. 839 sq ft @ £14.30 per sq ft = £12,000

@ .63% = **R.V. £76.00**

Mr. Colgan attached a list of comparisons in which he analysed all the other shopping units in the Centre showing the agreements reached with the various consulting agents. He said that all of these agreements have been accepted by the occupiers. He said that the Net Annual Value in this case is similar to the passing rent which was fixed in 1986 and that he has given a 7.6% reduction in this rent to allow for the "disregard clause" in the lease.

ORAL HEARING

The oral hearing took place in Dublin on the 24th April, 1992. The appellant Mr. Luke Griffin appeared on his own behalf and Mr. Philip Colgan represented the respondent.

Mr. Griffin said that the rent on which the valuation is based is unrealistic mainly because trade has deteriorated drastically over the past ten years to the extent that it is now abysmal. He said that the rent was fixed by the lease of 1979; that the landlords cannot be forced to reduce it and that he is bound by the terms and conditions of the lease. In referring to the deterioration of the Centre generally he said that because an improvement clause is not contained in the lease, the tenant cannot compel the landlord to improve either the unit or the centre generally. He also indicated that because of the high rent payable it is not possible to assign or sublet. He argued

that if the N.A.V. could be established in any way other than on rent, that the R.V. would be substantially reduced. He emphasised the fact that rents have not been revised in accordance with the terms of the lease and that the landlords will not accept a surrender of the lease.

Mr. Colgan argued that he had agreed an N.A.V. of £12,000 with Mr. A. Kelly of Messrs Harrington & Bannon who represented Mr. Griffin and the other tenants in the Centre; that the passing rent between landlord and tenant is the appropriate guide to ascertaining the N.A.V. being the best guide to the market and that Mr. Kelly when agreeing the N.A.V. in respect of all the other units did not make a point on the rent payable being too high.

FINDINGS

The Tribunal has considered all the evidence both oral and written and has had regard to Section 5 of the Valuation Act, 1986 which requires the Tribunal to have regard to valuations which are comparable; of similar function and whose valuations have been made or revised within a recent period. The Tribunal accepts the submission of the appellant with great sympathy but is satisfied that a case has not been made to warrant a reduction in R.V.. The Tribunal is bound by the rent and the comparisons within the Shopping Centre which have recently been revised and must therefore affirm the R.V. of £76.00.