

Appeal No. VA96/2/039

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

Dublin Legal Agency

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Offices at Map Ref: 22-23/10 Bridge Street Lower 'City Gate', Ward: Merchant's Quay A,
County Borough of Dublin
Quantum - Designation, new ground of appeal

B E F O R E

Con Guiney Barrister at Law

Deputy Chairman

Marie Connellan Solicitor

Member

Joe Carey PC.DDSc.DBAdm.MIAVI

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 14TH DAY OF MARCH, 1997

By Notice of Appeal dated the 23rd day of April 1996 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £90 on the above described hereditament.

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

"The valuation is excessive and inequitable when rental levels and other factors are taken into consideration."

The property is located at Bridge Street Lower in a designated area. The property consists of offices on 3 floors. The areas are as follows:-

Ground Floor	438 sq.ft.
First Floor	351 sq.ft.
Second Floor	428 sq.ft.

The Appellant and the Respondent are in agreement over the floor areas involved in the property. There is in fact a difference of 2 sq.ft. with respect to the total ground floor area between the Appellant and the Respondent, the Appellant's area being the lesser. The parties however did not make an issue of this at the hearing. The Appellant describes the ground floor as follows:-

Ground Floor	389 sq.ft.
Lobby	47 sq.ft.

The relevant valuation history is that the property in the 1994/4 revision was valued at £90. After the first appeal stage the valuation remained the same.

A written submission by Mr. Brian Bagnall of Brian Bagnall & Associates on behalf of the Appellant was received by the Tribunal on 9th day of October 1996. In his written submission, Mr. Bagnall described the location of the property and the accommodation located therein.

Mr. Bagnall estimated in his submission that a fair rent in 1988 would have been £8 psf for the ground floor and first floor and £6 psf for the second floor. The reason for the reduction on the second floor is that the building does not have the benefit of a lift. Mr. Bagnall therefore derives a rent of £8,500 per annum and applying the 0.63% factor to this rent he arrives at a rateable valuation of £54.

Mr. Bagnall's written submission contained a schedule of two comparisons.

A written submission by Mr. Brian O'Flynn, a District Valuer with 21 years experience in the Valuation Office on behalf of the respondent was received by the Tribunal on the 30th day of

September 1996. The submission contained a description of the property and details of the valuation history.

The submission contained details as to the basis on which Mr. O'Flynn arrived at the rateable valuation for the property which was as follows:-

Ground Floor	Offices (nett) 438 sq.ft. @ £12 psf
First Floor	Offices (nett) 351 sq.ft. @ £12 psf
Second Floor	Offices (nett) 428 sq.ft. @ £11 psf
NAV = £14,176 @ 0.63% = £89.30. Say RV £90.	

The submission stated that the valuation was arrived at by way of comparison with other properties which are similar and recently revised. The submission contained a schedule of three comparisons.

The oral hearing of the appeal took place in Dublin on 23rd day of October 1996.

In his sworn testimony, Mr. Bagnall adopted his written submission as his evidence to the Tribunal. In his evidence to the Tribunal Mr. Bagnall emphasised two main areas of concern to the appellant.

- (a) The Valuation Office had included the lobby on the ground floor in its valuation of the property. Mr. Bagnall contended that the Irish Code of Practice for Valuers stated that only nett lettable area should be valued and this excluded areas such as entrance halls and lobbies.
- (b) The property had designated status which involved special tax and rates incentives.

The nature of a designated area is that it creates an artificial market in rents according to Mr. Bagnall. In his opinion rental comparisons should be made to areas outside designated areas.

It was put in cross-examination by Mr. O'Flynn of the Valuation Office that the incentives make the properties more attractive and that this creates the rental values which produce the net annual value. When the incentives run out a different rental situation will emerge and therefore a different net annual value.

Mr. O'Flynn in his sworn testimony adopted his written submission as his evidence to the Tribunal. In his evidence he pointed out the different grounds used by the appellant at first appeal and at the Tribunal stage. In the former case the appellant raised the issue of the valuation in comparisons to similar type properties and in the latter the valuation was related to rental levels and other factors. He raised the issue of the Ebeltoft case - VA88/165 which decided that new grounds of appeal cannot be advanced before the Tribunal when these were not advanced at the appeal stage.

As to the issue of the lobby raised by Mr. Bagnall, Mr. O'Flynn stated that his comparisons in unit 9 and 13 of the same development had lobbies. In any event he could exclude the lobby and apply the same rental analysis to the remainder of the building.

Under cross-examination by Mr. Bagnall, Mr. O'Flynn was unable to answer the question as to whether the ten year rates moratorium was a decisive factor in the agreement at appeal stage in the rateable valuation of £90 for units 9 and 13 in the same development. Again when questioned, Mr. O'Flynn stated he did not have with him any written submissions by the Appellants in connection with these two properties.

The Tribunal finds that the grounds of appeal at the Tribunal stage that: "the valuation is excessive and inequitable when rental levels are taken into consideration" is equivalent to the grounds of appeal at the first appeal before the Commissioner namely that: "the valuation is excessive and inequitable compared to similar type properties". This is so because both grounds can only be reasonably related to net annual values for the properties and the consequent rateable valuations.

The Tribunal further finds that as the lobby issue was not specifically raised at the first appeal stage then it cannot be raised at the Tribunal hearing following the Ebeltoft case.

The Tribunal finds that the most appropriate comparisons to the subject premises are units 9 and 13 contained in the same development. Both properties are almost identical to the subject premises and each has a rateable valuation of £90.

Accordingly, the Tribunal determines that the rateable valuation of the subject premises is £90.

