

Appeal No. VA02/4/037

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

Mc Kay & Associates Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop Unit 2 at Map Reference: 58E / Shop 2 Rathfarnham Gate Mall, Rathfarnham Village,
County Dublin

B E F O R E

Frank Malone - Solicitor

Deputy Chairperson

Patrick Riney - FSCS FRICS MIAVI

Member

Joseph Murray - Barrister

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 22ND DAY OF MAY, 2003

By Notice of Appeal dated 13 November 2002, the appellants appealed against the Determination of the Commissioner of Valuation in fixing a rateable valuation of €69.84 on the relevant property described above.

The Grounds of Appeal as set out in the Notice of Appeal are:

"On the basis that the RV is excessive, inequitable and bad in law."

The appeal proceeded by way of an oral hearing which was held on 29th January 2003 in the Valuation Tribunal Offices. The appellants were represented by Mr. Eamonn Halpin (BSC surveying) ASCS, ARCS, MIAVI and the Respondent was represented by Mr. Denis Maher, District Valuer with over 27 years experience in the Valuation Office, three years experience in private practice and membership of the Royal Institute of Chartered Surveyors. Both Valuers prepared written summaries of their evidence which they exchanged with each other, gave copies to the Valuation

Tribunal and adopted same as their evidence in chief given under oath at the oral hearing.

Property Description

The property comprises a ground floor shop unit, one of four similar type units in the mixed development located on either side of a plaza/walkway linking the Main Street with Rathfarnham Road. The premises is of concrete block and brick construction with offset frontage finished with period style timber façade. Stud partitioned internally to suit occupiers requirements.

Valuation History

Property revised 10 November 2000 and no change made at First Appeal on 17 October 2002.

Appellant's Case

Mr. Halpin stated that the premises comprises a modern ground floor office/retail unit which formed part of the ground floor of a large apartment development in the centre of Rathfarnham Village. The subject property is one of four similar type units with two on either side of an open courtyard which serves as one of the pedestrian entrances to the scheme. He pointed out that the property was located in a small courtyard set back from the main street in Rathfarnham which cannot be seen from the main street and referred to one of the photographs in his submission. In his opinion this was more an office than a retail type location.

The premises currently operate as offices. The agreed floor areas were (63.54 sq metres, 684 sq feet). The premises is held under 25 year FRI (3 year reviews) lease from September 2000 at an initial rent of €2,855.29 per annum.

In referring to his submission he emphasized the following points

- (1) Although the subject property was close to the street, it had no frontage and was not visible from it.
- (2) In his opinion, because of the location of the subject property and type, nature and layout of the development, this was not a prime retail location, although close to the main shopping street.
- (3) He stated the location was not comparable with the best retail units in the village.
- (4) He considered the NAV 1988 tone applied by the Commissioner to be excessive in view of the comparables submitted by him.
- (5) He stated that the Commissioner relied heavily on the other three units in this development at the first appeal stage. However the appellants feel that the unit must also be viewed against the overall established level of valuations in the village itself.
- (6) He also stated that in view of the fact that the other three units in the development were currently subject to a Tribunal appeal and the fact that the Tribunal Judgment for Sureslim – VA01/3/098 had primarily dealt with the passing rent with the three adjoining units only used as comparables, he was of the opinion that additional evidence was now available to the Tribunal.

Mr. Halpin referred in some detail to his comparisons

1. Numbers 45 and 46 Main Street, Rathfarnham Village.
2. 48 Main Street, Rathfarnham Village.
3. 49a Main Street, Rathfarnham Village.
4. 40 Main Street, Rathfarnham Village.
5. Numbers 16 and 18 Main Street, Rathfarnham Village.
6. 50 Main Street, Rathfarnham Village.
7. 54 Main Street, Rathfarnham Village.

In view of the foregoing comparisons and the rental levels applied, he considered a fair rateable valuation to be R.V. €50 calculated as follows:

$$63.54\text{m}^2 \quad @ \quad \text{€}25/\text{m}^2 \quad = \quad \text{€}938 \quad \times \quad .63\% \quad = \quad \text{RV€}50$$

The Respondent's Case

Mr. Denis Maher, presented the respondents case and referred in some detail to his submission.

He described the property as situated within a mixed development of apartments, shops and offices positioned to the rear of Main Street and between it and Rathfarnham Road. He stated that the property comprised a ground floor shop unit which is one of four similar type units in the mixed development and located on either side of a plaza/walkway linking the Main Street with Rathfarnham Road.

He stated this Unit was part of a development known as Rathfarnham Gate that consisted mainly of new apartments together with four office units, four shop units and both surface level and underground parking.

He pointed out the subject unit was situated adjacent to and was generally similar in size and layout to Unit 3 which was the subject of a Tribunal appeal reference VA01/3/098 – Sureslim Wellness Clinic. The judgment in this case affirmed the valuation of €9.84, thereby setting a tone in respect of the four units here all of which are similar and valued at €9.84.

He pointed out this was a retail unit and used as offices and trading as “McKay & Associates Ltd.”

In his opinion the property was located very close to the Main Street being immediately to the rear of the shops fronting to the Main Street. The access was centrally positioned off the east side of the street. There was no evidence to suggest that this is a secondary location either in itself or relative to the Main Street. There were no changes in circumstances between the time the lease/rent was struck and the Valuation date which might adversely affect property values here. Consequently the rent passing and the adjustment to 1988 allowance of approximately 51.5% off this has to be seen as fair and reasonable. He also stated that both Tribunal judgments VA01/3/098 (Sureslim Wellness Clinic) and VA02/2/052 (McInerney Construction Ltd.), have determined the levels applicable to this development in themselves and provide the best comparisons.

In view of the foregoing he considered a rateable valuation of €9.84 to be fair and reasonable. He referred to shop units 3 and 4 in the Rathfarnham Gate Mall as suitable comparisons and also to the offices which had been sublet by McInerney Construction Ltd. at €43.37 per square metre.

Valuation Office Valuation

Floor Area	63.76sq.m.	@	€175psq.m.	=	€11,158
Say	11,100	@	0.63%	=	€9.93
Say					€9.84

Findings

The Tribunal has carefully considered all the evidence adduced and arguments proffered and makes the following findings:

1. The subject property is located in a small courtyard set back from the Main Street in Rathfarnham Village. It occupies the ground floor of a modern apartment development and in view of its position and lack of visibility from the Main Street it is considered to be a secondary commercial location in comparison to the Main Street.
2. The Sureslim Wellness Clinic judgment was based on the evidence of the passing rent on the three adjoining premises. In view of the fact that a considerable amount of evidence has been submitted in regard to rental levels on the Main Street, it is considered that the details submitted in regard to numbers 16,18 and 54 Main Street, Rathfarnham are of great assistance.
3. The Tribunal accepts Mr. Halpin's evidence that the location is not comparable with the best retail units in the village and that although close to the Main street, the location itself is more suitable as an office or quasi retail location.

Determination

In view of the foregoing the Tribunal determines the Rateable Valuation of the subject property to be as follows:

Agreed Floor Area:	63.54sq. m	@	€150psm	=	€9531.00
		@	0.63%	=	€60.04
Say			RV	=	€0