

Appeal No. VA02/5/031

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

**Top Tiles (Cavan) Ltd**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Shop at Map Reference: Unit 1, Townpark Centre, County Cavan

**B E F O R E**

**Frank Malone - Solicitor**

**Deputy Chairperson**

**Michael McWey - Valuer**

**Member**

**Frank O'Donnell - B.Agr.Sc. FIAVI**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 26TH DAY OF MAY, 2003**

By Notice of Appeal dated 20 November 2002 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €70 on the above described relevant property.

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 at Ormond House, Ormond Quay Upper, Dublin 7 on April 14<sup>th</sup> 2003.

Mr. Eamonn Halpin, BSc (Surveying), ASCS, ARICS, MIAVI appeared on behalf of the appellant.

Mr. David Molony, BSc MRICS, District Valuer in the Valuation Office appeared on behalf of the Commissioner. Both valuers having taken the Oath, adopted their respective précis as their evidence in chief.

### **Description**

The property comprises a lower ground floor retail tile showroom adjoining a car park.

### **Location**

The property is situated in the New Gallows Hill Centre in Cavan Town. This comprises a retail area and a multiplex cinema in an off centre location.

### **Accommodation**

The premises comprise a gross internal area of 607 sq.mtrs. (6,531 sq.ft.). This area has been agreed.

### **Tenure**

The property is held under a 25 year lease from 2000 @ €14,440.83 per annum, with five year rent reviews. A rent-free period of 3 months was granted at the commencement of the term.

Before the hearing of evidence the Chairperson suggested that as the difference between both parties was not great, was there a possibility of resolving the matter. Both valuers stated that efforts were made to achieve agreement, but difficulties had arisen, which has tied them to their respective figures.

**Appellant's Case**

Mr. Halpin for the appellant, referred to the Notice of Appeal and stated that at the time, based on information, he considered that €123 was a fair valuation. Subsequently on receiving further information relating to comparative valuations of Cavan Retail Park, which are most significant, he now has reduced the valuation of subject premises to €104 or €34.17 psm or to €8 based on 44% of the passing rent.

Mr. Halpin stated that the Gallows Hill Centre at the rear of Main Street was an unusual site, in that the subject unit is underground and it was never intended to have a retail store in this location. The subject property is inferior to the retail warehouses located in the Cavan Retail Park on the Dublin Road. The internal finishes in the subject are below the normal standard for this type of unit.

As distinct from the Cavan Retail Park he stated that the subject unit depended on passing trade from the car park.

Mr. Halpin referred to photographs he had taken of the comparisons pointing out that the locations of Dunnes Stores fronting the Main Street and Mc Intyres Furniture store were superior to the subject.

Mr. Halpin stated that the levels of rent in Cavan Town were moderate and he suggested that passing rent is best evidence in this case. He informed the Tribunal that the Commissioner had reduced the rents in Cavan Retail Park by 56% but reduced the rent of the subject by only 32%. He considered this unfair on the subject and believed that the Commissioner was inconsistent in that he sought to apply a higher basis of valuation on the subject than applied to similar type units in Cavan Town.

In relation to his Valuation, bearing in mind the passing rent he estimated a level of €34.17 per sq.mtr. or €2.50 per sq.ft., to be a reasonable reduction to reach 1988 levels. This was based on the area and he had regard to the Chartered Surveyors Index, which he used with caution but which nevertheless would support a reduction.

Mr. Halpin said that the subject unit was much more difficult to rent, yet the Commissioner had placed a higher N.A.V. on it than on the units in Cavan Retail Park. He maintained that the Commissioner had failed to maintain the tone of the list and has over assessed the subject.

Mr. Halpin submitted his Valuation as:

607sq.mtrs. @ €4.17 = €20,741 @ 5% = €103.70 say €104

or

NAV @ 44% of Passing Rent = €4,440.83 = €19,554

@ 0.5% = €7.77 say €8

### **Respondent's Case**

Mr. Molony gave evidence in accordance with his précis.

He stated that he concurred with Mr. Halpin regarding the condition and floor area of the subject unit and that it was off centre and away from the Main Street. He described it as the one 'stand alone' unit at ground floor level in the centre with access directly from the Car Park.

He stated that Dunnes Stores is located close to the subject and was his only comparison. He considered that the Valuation of €7 per sq.mtr was fair and in line with the Rental adjustment of 32% made on the Dunnes Stores property to arrive at a valuation for the subject property. He maintained that the subject benefited from the adjoining car parks, which were an asset to the area. He agreed that if subject unit was located in Cavan Retail Park which is c.800yds from subject there would be a higher level of net annual value applied.

### **Determination**

The Tribunal has carefully considered the evidence and submissions of both valuers, including photographic evidence.

It is the opinion of the Tribunal that the comparative evidence was of little assistance and that the evidence of passing rent adjusted to 1988 is the best evidence of net annual value in this case.

The Tribunal notes evidence given in relation to the Society of Chartered Surveyors Index, that the relevant fraction for conversion from 2000 - 1988 was 100/167.3.

The Tribunal has on many occasions indicated its reluctance to rely solely on indices to adjust rents to 1988. However, in the instant case, in the absence of other reliable evidence, the Tribunal has adopted the SCS Index to adjust the passing rent to 1988. This gives a reduction of about 40% on the passing rent which the Tribunal considers to be reasonable taking into account the location and condition of the subject premises.

The Tribunal therefore assesses the rateable valuation of the subject premises as follows:

$$\begin{array}{l} \text{Passing Rent} \quad \text{€}44,440.83 \quad \div \quad 167.3\% \quad \times 100 = \text{€}26,563 \text{ N.A.V.} \\ \text{NAV} \quad \quad \quad \text{€}26,563 \quad \times \quad .5\% \quad = \quad \text{RV}132.8 \quad \text{say } \text{€}30 \end{array}$$

The Tribunal therefore determines the rateable valuation to be €30.