

Appeal No. VA88/0/007

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

Patrick & Jean Staunton

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Lot 5AV Stillorgan North, Stillorgan Road, Co. Dublin

B E F O R E

Hugh J O'Flaherty

S.C. Chairman

Mary Devins

Solicitor

Brian O'Farrell

Valuer

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 29TH DAY OF SEPTEMBER, 1988

By notice of appeal dated 8th August, 1988, the appellants appealed against the decision of the respondent fixing the rateable valuation of the above described hereditaments at £85.

The valuation history of the premises, about which there is no dispute, is:-

the premises were first valued in 1948 when a rateable valuation of £56 was fixed on "new house, shop, motor house and small garden". On ensuing appeal the valuation

was reduced to £50.00. On 1954 Annual Revision, following the erection of a small store to the rear, the valuation was increased to £51.00. This valuation remained unchanged until 1987 Annual Revision when the hereditament was listed by Dublin County Council as follows "Property now occupied by Patrick Staunton and re-developed - value". Arising from this request for Revision the hereditament was subdivided into two new hereditaments viz. (i) shop premises and yard etc. on ground floor @ R.V. £85.00 and (ii) offices on first floor @ R.V. £25.00. Both occupiers were aggrieved at Revision and appealed to the Commissioner of Valuation.

This appeal is concerned only with the shop hereditament on the ground floor.

Mr. Donal Fitzpatrick ARICS of James H. North & Co., (Valuation Surveyors, Auctioneers & Estate Agents) of 7a Fitzwilliam Place, Dublin 2, represented the appellants at the hearing and Mr. Noel Lyons B.Comm., Valuer, represented the respondent.

In his written submission dated the 27th September, 1988, Mr. Fitzpatrick made the point that the premises were in a secondary location being some distance back from the Stillorgan Road. It was set out that this section of the Stillorgan Road has been cut off by the Stillorgan by-pass which has reduced passing trade considerably and in the circumstances it was submitted that the location was very much secondary and he set out his calculation as to what would be the proper rates to apply.

Storage/Display area: 114.00 sq.m. @ 50p p.s.m. = £57.00

Kitchen: 6.22 sq.m. @ 25p p.s.m. = £ 1.55

Strong Room: 10.77 sq.m. @ 25p p.s.m. = £ 2.69

Stores and Garage: 26.84 sq.m. @ 10p p.s.m. = £ 1.68

TOTAL = £63.92

SAY £64.00.

Mr. Fitzpatrick made a strong point about the proximity of the Stillorgan Shopping Centre which was a much more sophisticated development than the place which his clients' premises occupied; it had many shops; it had very ample car-parking space and it had the effect of rendering the location of his clients' premises somewhat of a backwater.

Mr. Fitzpatrick set forth certain comparisons, viz the Stillorgan Shopping Centre; Lenehans of Lower Kilmacud Road and Mulveys, Main Street, Dundrum.

In his written submission, Mr. Lyons, having given the valuation history of the premises as set out above thought that a valuation of £85.00 would be the correct one. He set out certain comparisons as follows:-

P & J Staunton	St. Laurence Park	R.V. £95.00
Bective Electrical	St. Laurence Park	R.V. £70.00
Mercantile Credit Co.	Kilmacud Rd. Lr.	R.V. £78.00
Matthew Farrelly	Gallopig Green South (near Leopardstown Inn)	R.V. £75.00
Japanese Restaurant	Newpark Centre	R.V. £75.00
Stephen Barry	Newpark Centre	R.V. £55.00
Irish Permanent) Building Society).	Kilmacud Road Lr.	R.V. £56.00

The oral hearing took place on the 28th September 1988, when Mr. Fitzpatrick elaborated on his written submissions and Mr. Lyons did likewise.

The Tribunal was struck with the fact that the original valuation in 1948 was £50-£51 and that an overall valuation of £110.00 which occurred at the 1987 Annual Revision represented more than a doubling of the valuation of the whole premises. Mr. Fitzpatrick conceded that there would have to be an increase once the premises were broken up into two separate units.

Mr. Lyons made the point that there had been an increase in the area of the premises since 1948; There was now a greater amount of the area used for business purposes rather than domestic purposes and that in 1948 this part of Stillorgan was a comparatively isolated area and that business and so forth had not been developed to the extent that it is today.

The Tribunal finds that there is a great deal of validity in these points and that, no doubt, there is a justification for an increase in the valuation over and above what the valuation would have been in 1948 if there had been a division of the premises into two units.

Mr. Lyons made the point, too, that the Stillorgan Shopping Centre, when it first started, was not thought to be likely to be a great success and the valuations may have been set somewhat on the low side. Nonetheless, the Tribunal is of the view that it would not be other than human for the appellants not to feel somewhat aggrieved that their valuation should be out of synchronisation with what prevails in what is now (and it is common case) a most successful shopping centre. In a sense the rents therein prevailing provide the most stark contrast though Mr. Lyons has hastened to say that we should attempt to compare like with like and that to make too much of a comparison with the units in the Stillorgan Shopping Centre would be to err.

The Tribunal is reminded of what was said in Pointers Case, 2 Konstam's Rating Appeals 407 and repeated with approval by Davitt P. in Davey v. Commissioner of Valuation (1956) IR 295 at 302 :-

"No doubt it is of rare occurrence for two set of premises to resemble one another so closely in every particular as to make the evidence of much value, but it is quite another matter to say that it is not admissible in point of law". C.f., too, the obligation placed on the Tribunal under Section 5 of the Valuation Act 1986.

The Tribunal is conscious that in attempting to strike a fair balance the making of a valuation is not an exact science. The Tribunal has come to the conclusion that the respondents valuation in this case should be reduced from £85.00 to £75.00.

Since this was the first case heard by the Tribunal the members of the Tribunal would wish to place on record their gratitude to the respective parties for the care and thoroughness with which their written and oral submissions were presented and which were such a great help to the Tribunal in reaching a conclusion.