

Appeal No. VA88/0/135

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

Trustees of Fitzwilliam Lawn Tennis Club

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Club Rooms and grounds, Lot 1.2, The Appian Way (incl. 1-6, Winton Road) Co. Dublin

B E F O R E

Paul Butler

Barrister (Acting Chairman)

Mary Devins

Solicitor

Brian O'Farrell

Valuer

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 27TH DAY OF JULY, 1989

By notice of appeal dated the 22nd day of August 1988, the appellants appealed against the determination of the Commissioner of Valuation fixing the rateable valuation of the above described hereditaments at £800.00.

By reason of the matters set out hereunder it is unnecessary to state the grounds of appeal or to deal with the respondent's written submission.

The oral hearing took place in Dublin on the 31st of May, 1989. John Sweetman, Senior Counsel (instructed by T P Robinson & Co., Solicitors) represented the appellants and Aindrias O'Caoimh, Barrister-at-Law (instructed by the Chief State Solicitor) represented the respondent.

At the commencement of the hearing, Mr Sweetman indicated that his instructions were to withdraw the appeal.

Mr O'Caoimh, in applying for an order of costs stressed that the appeal had been before the Tribunal for some considerable time and that the (relevant) Turf Club case was decided on the 6th of December last. The date of hearing had been fixed some weeks ago and the Commissioner was not informed of the intention to withdraw the appeal on the eve of the hearing.

Mr Sweetman argued that this appeal was one of the earliest such cases "off the mark" and that some adjournments thereof were at the behest of the Tribunal.

While the Tribunal agrees that the appellant was very late in withdrawing the appeal and accepts that costs were unnecessarily incurred by the respondent, it is satisfied, having regard to previous decisions and to the circumstances of this appeal that the practice of not awarding costs in similar cases should be followed in this case.

The Tribunal, however, wishes to make it clear that in future cases where appeals may be withdrawn at the last moment it will be open to the respondent to seek costs and such applications shall be dealt with on their merits.

