

Appeal No. VA90/2/015

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

**D.I.D. Electrical**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Shop and Store at Lot No. 4B.2 to 6 Stillorgan North, Stillorgan, Mount Merrion, Co. Dublin

Quantum - Comparisons

**B E F O R E**

**Paul Butler**

**Barrister (Acting Chairman)**

**Padraig Connellan**

**Solicitor**

**Brian O'Farrell**

**Valuer**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 23RD DAY OF NOVEMBER, 1990**

By Notice of Appeal dated the 11th July 1990 the appellants appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £210 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.

### **Description of Property**

The subject premises is a shop and store located on the Lower Kilmacud Road and previously comprised a small shopping centre with five units. The premises occupy the ground floor.

### **Valuation History**

The premises was valued in 1982 when it was being developed as a small shopping centre with five units. The centre failed and was sold to the present occupier in 1988. The subject premises was the subject of the 1989 quarterly revision issued on the 10th November, 1989 when the valuations of the separate shop units were amalgamated and issued as a single valuation of £265. An appeal against this was lodged and in July 1990 the Commissioner issued his decision reducing the rateable valuation from £265 to £210.

### **Written Submissions**

A written submission on behalf of the appellant was received from Mr. Desmond M. Killen, F.R.I.C.S., I.I.R.V., a director of Donal O'Buachalla & Company Limited, on the 17th September 1990. Mr. Killen outlined the valuation history of the premises and said that D.I.D. Electrical, the owners/occupier purchased the premises in 1987 for £200,000. He said that an amount of £17,430 was expended on removing partitions to convert the units and passages to a showroom and stores and the provision of a new shopping front. He said that as a shopping centre the premises had failed. Mr. Killen quoted from Mr. Justice Barron's judgment in the High Court of The Irish Management Institute -versus - the Commissioner of Valuation, (delivered on the 19th March, 1990) and he said that the translation from Net Annual Value to Rateable Valuation demands an investigation of the relationships between Net Annual Values and Rateable Valuations of valuations which

- (a) are comparable;
- (b) relate to tenements and hereditaments of similar functions;
- (c) have been made or revised within a recent period.

He said that the Commissioner of Valuation, in conjunction with the recent 1989 Revision carried out such a detailed analysis in the prime trading areas of Grafton Street and Henry Street, Dublin, and it emerged that a factor of 0.63% applied to Net Annual Value gave Rateable Valuation. He said that to his knowledge no such analysis had been made in County Dublin but it had transpired that prior to 1988 revisions a factor of .5% was applied. He said that the figure was then altered on 1990 revision to 0.63%.

Mr. Killen said there is little doubt that the best evidence of NAV is the open market rent. He said that the subject premises was purchased on the open market for £200,000 and there was an expenditure of £17,430 on conversion. He then estimated the NAV as

(1) £240,000 @ 10% say £24,000

Alternatively,

(2) Shop/show room 261 sq. metres = 2,808 sq. ft.

@ £8.50	£23,868
Rear Store: 41 sq metres = 441 sq. ft. @ £2	£ 882
Office "Low Level" 7 sq.metres = 75 sq. ft. @ £2	<u>£ 150</u>
Total:	£24,900

With regard to the rateable valuation Mr. Killen said that, in the light of the previous 1983 assessments on the five units of £55, £30, £9, £30, and £33, which were in respect of smaller units and which would command higher rentals per sq ft, a rateable valuation of £150 would be more than adequate on the subject premises. He said that the rateable valuation must, of necessity, be calculated with reference to the Net Annual Value and by the application of certain percentages the rateable valuation should be either at .03% RV £72; at .5% RV £120; or at .63% RV £150. He submitted therefore that a fair rateable valuation is a figure not in excess of £150.

A written submission was received from Mr. Christopher Hicks, an Appeal Valuer in the Valuation Office on the 18th September 1990. Mr. Hicks again outlined the rateable valuation history of the subject premises and said that the valuation was calculated as follows:

Shop 2,800 sq ft @ £12.00 = £33,600

NAV £33,600 @ .63% = £211.68

R.V. £210

Mr. Hicks supplied the following comparisons:-

(1) Unit 4B<sup>2</sup> of previous development:

35 year lease from April 1982

Rent £15,000 p.a.

devalues as 872 ft<sup>2</sup> @ £17.20 per ft<sup>2</sup>

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(2) Unit 4B<sup>6</sup>

35 year lease from April 1982

Rent £8,840 p.a.

devalues as 473 ft<sup>2</sup> @ £18.70 per ft<sup>2</sup>

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(3) Unit 4B<sup>1</sup> Snooker hall on first floor VA/88/359

Fixed by Tribunal at £170

devalues as 4600 ft<sup>2</sup> @ £6 = £27,000

NAV £27,000 @ .63% = RV £170

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(4) H. Williams supermarket (in receivership), Deansgrange  
Purchased by Super Value in 1987 for £675,000  
Cost of alterations £ 30,000  
Capital Value £705,000  
Agreed 1988 First Appeal R.V. £680

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With regard to comparisons (1) and (2) Mr. Hicks said that these are the two front units of the original development. Although much smaller than the D.I.D. premises, he said, that these are similar in shape and can be compared proportionally to it. He said that a direct proportion with no allowance for inflation indicates a rent of at least £12 per sq.ft.

With regard to comparison (3) he said that this is a Tribunal judgement fixing £6 per sq ft on the first floor Snooker Hall. He said that a ground floor premises is worth considerably more than the first floor and a factor of three would not be unusual. He said that the ground floor shop is smaller than the first floor a fact which should further increase the difference between the two rental levels.

With regard to comparison (4) he said that this supermarket had ceased trading in 1987 when it was purchased from the receiver. He said that the purchase price in this case and in the subject premises was relatively low and would have to correspond to a high yield (in this case 15.3%) to compensate the purchaser for the risk he has taken.

### **Oral Hearing**

The oral hearing took place on 21st September 1990. Mr. Des Killen represented the appellant and Mr. Christopher Hicks represented the respondent. Both sides gave evidence as outlined in

their written submissions. Both parties agreed that a previous tenant, Stillorgan Carpets, had rented its premises at £18 per sq ft. Mr. Killen, however, pointed out that this rent was shown to be excessive by virtue of the fact that the Shopping Centre failed miserably. Mr. Killen said that in 1989, 0.5% of net annual value was being used by the Commissioner to obtain the rateable valuation in County Dublin. He said that in the 1990 revision the Commissioner was applying .63% as the appropriate fraction in County Dublin. He said that this was equating Stillorgan with the prime shopping areas of the city.

Mr. Hicks said that he was relying mainly, for comparative purposes, on the Snooker Hall on the first floor as determined by the Tribunal and which devalues at £6 per sq ft. He said that it is common knowledge that ground floor properties are valued up to three times more than a first floor property. He pointed out that the Snooker Hall is also significantly greater than the subject premises which would further increase the difference between the two rental levels.

The Tribunal having considered the material in the written precis and all the oral evidence given has concluded that the Snooker Hall is the most appropriate of the comparisons and feels that the ground floor subject premises is at least twice if not three times as valuable. As regards the point made by Mr. Killen concerning the appropriate fraction of net annual value to be applied the Tribunal does not feel that it need address that problem on this occasion as having allowed for the increased value of ground floor properties, the transference of the devaluation of the comparison to the subject property at any of the realistic percentages mentioned would not reduce the rateable valuation for the appellant.

The Tribunal therefore determines that the decision of the Commissioner be upheld.