

Appeal No. VA90/2/024

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

Bernadette Egan

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Licensed House, Shop Off and Yard at Lot No. 29,31 (45,46) John Street Upper, Co. Kilkenny

Quantum - Ratio, comparisons

B E F O R E

Paul Butler

Barrister (Acting Chairman)

Mary Devins

Solicitor

Brian O'Farrell

Valuer

JUDGMENT OF THE VALUATION TRIBUNAL
DELIVERED ON THE 5TH DAY OF OCTOBER, 1990

By notice of appeal dated the 16th day of July, 1990, the appellants appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £100.00 on the above described hereditament.

The Property

The property consists of ground floor shop, stores with domestic accommodation overhead. The shop is double fronted and is in the nature of a butcher and general grocery but also has an off licence business. It also has a full 7 days licence. The premises is located in John Street Upper which is mainly a mixed commercial street.

Valuation History

Prior to the 1976 Revision the R.V. was £40. In 1976 the R.V. was revised and increased to £52. This valuation was appealed but there was no change made. In 1989, the property was revised and R.V. increased to £120. The R.V. was appealed and Mr Hickey was deputed by the Commissioner to investigate and report. He inspected the property in May 1990. The Commissioner having considered his report reduced the R.V. to £100 which is now the subject of this appeal.

Written Submissions

A written submission was received from Mr Edward Hickey, a Valuer in the Valuation Office, on behalf of the respondent on the 26th September, 1990.

Mr Hickey said that the comparative method is relied upon to arrive at a fair net annual value. He said that the net floor area of ground floor (excluding toilets and hallway) is 1,764 sq. ft. The zoning method is used as follows:

Zone A	656 sq. ft. @ £13.00/sq. ft.=	£ 8,528
Zone B	656 sq. ft. @ £ 6.50/sq. ft. =	£ 4,264
Zone C	452 sq. ft. @ £ 3.25/sq. ft. =	£ 1,469
Domestic	1,222 sq. ft. say	<u>£ 2,000</u>
	Total	£16,261
	Say	£16,000

He made reference to Section 11 of the Valuation Ireland Act 1852 and section 5 of the Valuation Act, 1986.

Mr Hickey said that the Tribunal is requested to decide on two important elements in this case.

1. What is the correct net annual value of these premises as per Section 11 of the 1852 Act, amended by Section 5(1) and (2) of the 1986 Act.
2. What is the correct rateable valuation to be fixed, having regard to the preamble of the 1852 Act, where uniformity is demanded and Section 5(1) and (2) of the 1986 Act.

He submitted that the net annual value is £16,000 and that the appropriate factor is .63% and thus rateable valuation is £100 (domestic allowance of £12). He offered two comparisons and these are attached at Appendix "A".

Mr John O'Mara of John O'Mara & Co. Certified Public Accountants on behalf of the appellant forwarded a written submission on the 1st October, 1990. This is referred to further in this judgment.

At the oral hearing which took place in Kilkenny on the 4th October, 1990 the appellant was represented by Mr John O'Mara of John O'Mara & Co.. Mr Edward Hickey, Valuer with the Valuation Office represented the respondent.

After discussions between the parties on factual differences between the submissions N.A.V. was agreed at £16,000, and it was agreed that there had been an increase in the retail area from 624 sq. ft. to 1,026 sq. ft.

Mr John O'Mara said that the comparisons offered by the respondent were not valid in that both of them were not retail outlets but offered services to the public. He further submitted that even if they were to be accepted, the .63% fraction, if applied to comparison number 1 would yield a rateable valuation of £45.86 as opposed to the actual rateable valuation of £32, and in the case of comparison number 2, the application of the Commissioner's fraction would yield a rateable valuation of £40.95 as opposed to the actual rateable valuation of £32.

Mr Hickey referred to his written submission and reiterated his arguments as to the desirability of an overall ratio of N.A.V. to R.V. and as to fixing that ratio at .63%.

He went on to stress that there had been an increase of approx. 65% in the retail area and argued that premises such as his comparisons viz. video shop and laundry, were valid comparisons since many shops commanded the same rent, regardless of the type of business carried on therein.

The Law

Section 5 subsection 1 and 2 of the Valuation Act, 1986 states as follows:

"5. (1) Notwithstanding section 11 of the Act of 1852, in making or revising a valuation of a tenement or rateable hereditament, the amount of the valuation which, apart from this section, would be made may be reduced by such amount as is necessary to ensure, in so far as is reasonably practicable, that the amount of the valuation bears the same relationship to the valuations of other tenements and rateable hereditaments as the net annual value of the tenement or rateable hereditament bears to the net annual values of the other tenements and rateable hereditaments.

(2) Without prejudice to the foregoing, for the purpose of ensuring such a relationship regard shall be had, in so far as is reasonably practicable, to the valuations of tenements

and rateable hereditaments which are comparable and of similar function and whose valuations have been made or revised within a recent period."

In the judgment of Barron J. above referred to, he said that in reference to subsection 2 of Section 5 of Valuation Act, 1986 that it "is not a provision on its own. What is being sought is an overall proportion between hypothetical rents and valuations. This must be borne in mind when applying its provisions. What must be considered are valuations which:

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

Where there is evidence under each of these headings sufficient to obtain the relevant proportions then the valuations can be determined by reference to the subsection alone. Where the evidence is insufficient, then the overall proportions predicated by subsection (1) must be adopted. In each case, the sufficiency of the evidence is a matter for the Tribunal."

While the Tribunal is conscious of the desirability of achieving a uniformity in the ratio to be applied between N.A.V. and R.V. it does not accept that this can be achieved by taking an average of properties which are not only widely diverse but each of whose range of ratios is extremely wide.

The Tribunal accepts the respondent's comparisons as valid and meeting the criteria of Barron J. quoted above.

It is therefore determined that the correct rateable valuation should be £80.