

Appeal No. VA91/2/010

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

Killag Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop trading as Noel Reid Menswear, Unit 7 Dundrum Shopping Centre, Dundrum -
Sweetmount, Co. Dublin

Quantum - Passing rent, no deduction for service charges.

B E F O R E

Henry Abbott

Barrister Chairman

Paul Butler

S.C.

Veronica Gates

Barrister

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 2ND DAY OF MARCH, 1992

By notice of appeal dated 19th day of July, 1991, the appellants appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £130 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that the valuation is out of line with property in the location and the method of application of the present legislation is inequitable and inaccurate.

THE PROPERTY

The subject property is situated in the Dundrum Shopping Centre which was developed in 1971 and was one of the earlier Shopping Centres in Dublin. The subject property comprises a ground floor area of 836 square feet and a basement of 790 square feet. There is a total of 16 ground floor units in the Shopping Centre, two units at a lower level and 7 separate first floor units.

WRITTEN SUBMISSIONS

A written submission dated the 3rd September, 1991 was received from Mr. Desmond J. Boyle, F.R.I.C.S., A.C.I.Arb, M.I.A.V.I., Chartered Valuation Surveyor on behalf of the appellant. In this Mr. Boyle said that at November 1988 the passing rent was £16,800. He said that in his opinion the rateable valuation of the property should be £98.00. Mr. Boyle said that there is no evidence of open market lettings on the ground floor of Dundrum Shopping Centre as at November 1988. He said that in drawing evidence from the open market lettings in Main Street, Dundrum deductions would have to be made from these open market levels to bring a semblance of parity. He said that in the Shopping Centre shops pay a service charge which in 1988 was about £4.30 per square foot. Mr. Boyle said that in his opinion a rental value at the rate of £20 per square foot applies in Main Street, Dundrum. He said that applying this to the subject property would imply a net annual value of £19,000 less £3,500 service charge giving a final net annual value of £15,500. He said that by applying a percentage of .63 as a percentage between rental values and rateable valuation he would arrive at a rateable valuation of £98.00 for the subject property. Mr. Boyle supplied comparisons as follows:

- (a) Xtra Vision, Main Street, Dundrum
- (b) Carr's Newsagency, Main Street, Dundrum
- (c) Stillorgan Shopping Centre
- (d) 9, Main Street, Dundrum.

Details of these comparisons are attached as appendix A to this judgment.

A written submission was received on the 26th August, 1991 from Mr. Christopher Hicks, an appeal valuer in the Valuation Office on behalf of the Respondent. In this precis Mr. Hicks said that virtually all of this Shopping Centre was appealed to the Commissioner and in valuing it he attempted to adopt a uniform approach. He said that in all cases the base date used is November 1988 and the rent/rates ratio is .63%. The factors for consideration are:

- (1) The rents fixed at the most recent review in 1985.
- (2) New lettings close to the base date
- (3) The Capital Value of the leases.
- (4) Zoning

He said that the Centre came on the market in 1971 and the basic ground floor units were let at that time for £1,590 per annum. He said that the vast majority of the current rents date from a review in 1985 at which stage the basic rent was fixed at £15,500 per annum. He said that one unit "Ashley Reeves" was let in 1984 at an agreed rent of £18,500 which he said indicated that the tenant's interest in the lease is worth an extra £3,000 per annum. He said further that this rent was reviewed in 1989 to £21,750 which he said was the most recent rental evidence and also evidence very close to the base date of November 1988. He said that all of this points to the fact that the rent for the basic unit would be no less than £20,000. He said that in calculating the rateable valuation an estimated rent of only £18,250 was used and that this must be seen as exceptionally low. Mr. Hicks devalued that rent as follows:

Overall: 865 ft² @ £21 per ft² = £18,165

OR

Zoning:

Zone A	355 ft ² @ £32 =	£11,360
Zone B	355 ft ² @ £16 =	£ 5,680
Balance	155 ft ² @ £8 =	<u>£ 1,240</u>
		£18,280

With regard to the basement Mr. Hicks said that the 1985 reviewed rent on the basement was £2,200 and for 1988 is estimates a rent of £2,380. Mr. Hicks said that this devalues at £2.75 per square foot. Mr. Hicks then made out his calculation of the rateable valuation for the subject premises as follows:

Zone A	355 ft ² @ £32	=	£11,360
Zone B	355 ft ² @ £16	=	£ 5,680
Balance	155 ft ² @ £8	=	£ 1,240
Basement		=	<u>£ 2,380</u>
			<u>£20,660</u>

N.A.V. £20,660 @ 0.63% = R.V. £130

Mr. Hicks offered as a comparison "Prescotts" which he said was an identical unit to the above, first valued in 1990 at first appeal stage at £130 rateable valuation and he said that this was not currently the subject of a revision or appeal.

Oral Hearing

An oral hearing took place on the 11th day of September, 1991. Mr. Desmond Boyle, Chartered Surveyor gave evidence on behalf of the Appellants. Mr. Christopher Hicks, District Valuer, appeared on behalf of the Respondent.

Mr. Boyle referred to his written submissions and stated that the appellant, "Killag Ltd.", is a company trading in Dundrum Shopping Centre as "Noel Reid Menswear". Dundrum Shopping Centre was developed in 1971 and is therefore one of the first such Shopping Centres in Dublin. Mr. Boyle described the design of the Dundrum Shopping Centre as being very dated and said that in fact it is no more than a precinct on the Main Street. The units are all of similar construction and are built of reinforced concrete with modern shop fronts.

The subject premises is a ground floor unit of 836 square feet and has a basement of 790 square feet. The passing rent on this premises as of November 1988 was £16,800 per annum, with a 5-year rent review. Mr. Boyle said that he was of the opinion that the correct R.V. for this unit is £98. There is no evidence of an open market letting in Dundrum Shopping Centre at the relevant date, so drawing evidence from the open market rents in the Main Street, Mr. Boyle contended that the shops in the latter location are better situated and more in demand. Mr. Boyle felt that the service charge in the Shopping Centre should be deducted from the rental value in order to draw any parity between open market levels in the Main Street and in the Shopping Centre. The 1988 service charge figure in the Shopping Centre was £4.30 per square foot. Mr. Boyle said that in his opinion the rental value in the Main Street at the relevant date was £20 per square foot. He said that if this rate is applied to the subject premises the rental value works out at £19,000 per annum. If the service charge (which only applies to ground floor units) is deducted from this figure the N.A.V. is £15,500 and applying 0.63%, this gives a R.V. of £98.

Mr. Boyle then dealt with four comparative premises as follows:-

- (1) The Xtra-Vision shop which is located in Dundrum, Main Street. This 21-year leasehold premises is not subject to rent reviews and was sold in 1989 for £75,000. It comprises 775 square feet of retail space, plus storage to rear. In

Mr. Boyle's opinion the N.A.V. is £20,000 per annum. The R.V. was revised in 1991 to £85.

- (2) Carr's Newsagent shop is also located on Dundrum Main Street. It comprises 900 square feet of retail space and recently constructed 1st floor offices would not have been included in the latest valuation. Mr. Boyle said that the N.A.V. was approximately £20,000 and the R.V. was £70.
- (3) Mr. Boyle then referred to Stillorgan Shopping Centre in order to give examples of the valuations which have been agreed there and to compare these with the subject Shopping Centre. He said that standard units such as Unit 40 owned by "Clear Vision" had recently agreed a R.V. of £165 with a rent, on the last rent review in December 1988 of £32 per square foot. In Mr. Boyle's view rental values in the Stillorgan Shopping Centre are at least 60 - 70% higher than in Dundrum Shopping Centre.
- (4) No. 9 Main Street, Dundrum is a ground floor shop comprising 390 square feet and 224 square feet stores. The 1st floor of 573 square feet has separate access and is separately valued. The ground floor shop was revised in 1991 to £28 which was no increase from the previous R.V.. The entire premises is let at £20,000 per annum. The 1st floor is sub-let at £7,500 per annum which give a rental value of £12,500 for the ground floor.

Mr. Hicks then commented on the comparisons given by the Appellant. He referred firstly to No. 9 Main Street saying that this shop had closed down when he went out to inspect it for revision purposes. The valuation on No. 9 was £28 and he decided that in the circumstances it was best to leave the R.V. unchanged and request the local authority to have the property re-listed for revision. Commenting on the Xtra- Vision shop, Mr. Hicks said that the Valuation Office had given a N.A.V. of £13,500 whilst Mr. Boyle had suggested a N.A.V. of £20,000. He said that he would not necessarily disagree with Mr. Boyle's opinion in view of what he had discovered since, but it is simply a fact that both opinions on N.A.V. are different as there is no actual rental evidence available.

Referring to Carr's Newsagency, Mr. Hicks said that the Valuer who inspected this property stated that there were works being carried out on it at the relevant time. The R.V. is £70 and the property is listed for revision.

Mr. Hicks felt that the crux of the disagreement between himself and Mr. Boyle was that in his opinion Dundrum Shopping Centre would have a higher rental value than Dundrum Main Street. With regard to service charges, Mr. Hicks said that Mr. Boyle had estimated its value and then deducted this figure from the rent. He said that as the tenants are paying rent plus the service charge the N.A.V. would not normally be estimated in this way. In response Mr. Boyle said that it was his contention that the Main Street is a better location and if one is to seek a comparison between the shops one must deduct from the Main Street rentals, the additional cost of the service charge imposed in the Shopping Centre.

Mr. Hicks said that the R.V. of £115 which he considered to be correct for the basic unit is applied throughout the Shopping Centre as a basis for aligning all the other valuations. In deciding on a R.V. of £115 and a N.A.V. of £20,000, Mr. Hicks said he had taken as low a figure as was possible. He said that he had taken the rental evidence of the "Ashley Reeves" shop unit, which is a recent rent, and attempted to arrive at a N.A.V. and then deducted the rent per square foot from that. The Valuation Office took the view that these were all standard units and the R.V. for most, unless there are special circumstances, should be the same i.e. between £114 - £116. He said that the basement of the subject premises was valued at £15.

Mr. Hicks said that normally a Shopping Centre has a higher valuation than a Main Street for a variety of reasons e.g. availability of easy parking. Suburban Shopping Centres generally are of higher value than Main Street.

Determination

Having considered the evidence given by both parties in relation to the levying of a service charge on the tenants of the Dundrum Shopping Centre, the Tribunal is of the opinion that it is not appropriate to make any deduction from the rental value for the service charge.

The Tribunal has had regard to the comparisons put forward by both parties, particularly the similar units in the Shopping Centre and on Dundrum Main Street.

The Tribunal considers that the Respondent has adopted a reasonable approach in arriving at the N.A.V and R.V. of the subject premises and feels that this is an appropriate approach.

In all circumstances, the Tribunal determines that the R.V. of the subject premises be affirmed.

