

Appeal No. VA91/2/058

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

Hodges & Figgis

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop, offices & stores at 57/58 Dawson Street, County Borough of Dublin

B E F O R E

Henry Abbott

Barrister Chairman

Paul Butler

S.C.

Padraig Connellan

Solicitor

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 11TH DAY OF OCTOBER, 1991

By notice of appeal dated 24th day of July, 1991, the appellants appealed against the determination of the Commissioner of Valuation in fixing the rateable valuation of £1,125 on the above described hereditaments .

The grounds of appeal as set out in the Notice of Appeal are that

- (1) The assessed R.V. of £1,125 is grossly excessive and inequitable relative to assessments on other commercial properties in Dawson Street and its environs and is totally at variance with the relationship established between rental value and rateable value in Mansion House Ward.

- (2) The said assessment is bad in law in that it does not comply with the provisions of Section 5 of the Valuation Act, 1986.

The Property

No. 57/58 Dawson Street is situated on the left hand side of Dawson Street between the junction of Duke Street and Nassau Street. It is a double fronted, five storeys over basement building complete with lift. The ground, first and second floors are used for retailing with the balance used for offices and stores.

Valuation History

The property was listed for revision by Dublin Corporation in 1990 following extensive refurbishing by the present occupiers. The valuation was then fixed at £1,300.00 which was appealed to the Commissioner of Valuation. Having considered the report of the appeal valuer the Commissioner fixed the rateable valuation at £1,125.00. It is against this amount that the appeal now lies with the Tribunal.

Written Submissions

A written submission was received from Mr. Fergus Keogh, a chartered surveyor/auctioneer and an Associate Partner in Jones Lang Wootton, on the 27th September, 1991 on behalf of the Appellant. In this written precis Mr. Keogh pointed out that the relevant date for the purposes of assessing the rateable valuation of the subject property is the 1st November, 1988. He said that the property has recently been acquired by Pentos Retailing Group Limited to trade as Hodges & Figgis. Mr. Keogh outlined the agreed measurements of the premises as follows:

	<u>SQ.FT.</u>	<u>M²</u>
Ground Floor Retail	4,170	387.40
First Floor Retail	3,862	358.79

Second Floor Offices/Stores	4,074	378.48
Third Floor Offices/Stores	970	90.12
Fourth Floor Offices/Stores	903	83.89
Basement Stores	<u>4,208</u>	<u>390.93</u>
TOTAL	18,187	1689.61

Mr. Keogh said that the subject property is held under lease for a 35-year term from the 1st October, 1970 subject to 7 yearly rent reviews. He said that the rent was settled for the 7 years commencing on 1st October, 1984 at £85,000 per annum. He said that the building is to be reviewed as a shell assuming full vacant possession and agreed between a willing lessor and a willing lessee. He said that the economic conditions during the period were not of a favourable nature and he supplied details of the Irish Property Index dated July 1991 produced by Jones Lang Wootton Research. He said this index demonstrates that:

- (1) Inflation between December 1984 and December 1988 was at 14.85%. He said that indexing the rental of the subject as agreed in 1984 by the inflation rate would produce an annual rental value of £97,623.00.
- (2) The rental value index between this period for retail properties grew by 13%. He said that by indexing the rental value of the shop by this percentage an annual rental value of £96,747.00 per annum is arrived at.

Mr. Keogh outlined the following factors which he said affect rental value:

- (1) The subject property is in a secondary retail location primarily occupied by showroom and service users.
- (2) That the size of the property is one of the most important factors to be considered. He said that in assessing the Net Annual Value of the property one has to consider the

demand for such a property as of the Valuation date. He said that there are a few occupiers for such accommodation in a secondary location.

- (3) That the statistics supplied indicate that the economic climate at the time was poor, that the inflation rate was high, rental value was not keeping pace with the inflation level and capital values were decreasing.

Mr. Keogh supplied seven comparisons, the main one of which is Waterstones Bookshop, 7 Dawson Street, Dublin 1. Details of the comparisons supplied by Mr. Keogh are attached to this judgment as Appendix A.

Mr. Keogh sets out his opinion of the Net Annual Value for the subject property as follows:

Ground Floor Retail	4,170 Sq.ft. @ £8.00 psf	£33,360
First Floor Retail	3,862 Sq.ft. @ £6.00 psf	£23,172
Second Floor Stores	4,074 Sq.ft. @ £4.50 psf	£18,333
Third Floor Stores	970 Sq.ft. @ £4.00 psf	£ 3,880
Fourth Floor Stores	903 Sq.ft. @ £3.50 psf	£ 3,160
Basement Stores	4,208 Sq.ft. @ £3.00 psf	<u>£12,624</u>
TOTAL		£94,529

By applying a factor of .63% as a ratio between rateable valuation and Net Annual Value he submitted that the proper rateable valuation for the property would be £595.00.

A written submission was received on the 1st October, 1991 from Mr. Kevin Allman, Appeal Valuer, Valuation Office on behalf of the respondent. In this written submission Mr. Allman sets out the details of the property and the valuation history. He also attached photocopies of the agents case as presented at first appeal and he said that no figures were produced to support the

Net Annual Value of £95,000. Mr. Allman says that the present rent is £85,000 per annum and that the leasehold interest was purchased in 1988 for £140,000. He said that the property is in excellent condition having been totally refurbished by the present occupiers at a given cost of £500,000. Mr. Allman sets out his calculation of rateable valuation as follows:

Ground Floor:

Zone A	788 sq.ft. @ £40.00 - £ 31,520
Zone B	788 sq.ft. @ £20.00 - £ 15,760
Balance	2598 sq.ft. @ £10.00 - £ 25,940

First Floor:

Retail	3862 sq.ft. @ £10.00 - £ 38,620
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(With lift and leading
directly into Brown Thomas)

Second Floor:

Retail/lift	4074 sq.ft. @ £ 8.00 - £ 32,592
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Third Floor:

Stock/lift	970 sq.ft. @ £ 7.00 - £ 6,790
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Fourth Floor:

Offices/lift	903 sq.ft. @ £ 7.00 - £ 6,321
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Basement:

Stores/lift	4208 sq.ft. @ £ 5.00 - <u>£ 21,040</u>
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£178,583

$$@ .63\% = \underline{\pounds 1,125}$$

OR

Rent fixed at time of purchase	£ 85,000
Add for premium paid 140,000/3.5 years	£ 40,000
Add for value of refurbishment £500,000 x 11%	<u>£ 55,000</u>
	£180,000

$$@ .63\% = \pounds 1,134$$

R.V. £ 1,125

Mr. Allman attached three comparisons to his precis the primary one being Waterstone & Co., No.7 and rear of No. 6 Dawson Street. Details of the comparisons supplied by Mr. Allman are attached as Appendix B to this judgement.

Oral Hearing

The oral hearing took place on Monday 7th October, 1991. The Appellant was represented by Mr. Fergus Keogh ARICS, MIAVI and the Respondent was represented by Mr. Kevin Allman, B.Comm., D.P.A. who is a Staff Valuer with 18 years experience in the Valuation Office.

Mr. Keogh gave evidence along the lines of the written submission summarised above. He placed considerable emphasis on his assertion that the subject premises is an unusual premises, in so far as it is one of the biggest single let premises in a secondary location in Dublin, comprising 18,000 square feet approximately of which about 12,000 square feet are in retail use. He stated that the 18,000 square feet of the subject premises is the equivalent of a Superquin type supermarket on four floors. Mr. Keogh said that there was no dispute on the floor areas of the subject premises and stated that the premises is serviced with a lift. The basement was not very serviceable by reason of the low head room and a tendency to flooding for three to four months of the year due to the water table which had given rise to high tanking costs. While the

description of the location as a secondary location was accepted by both Appellant and Respondent, it emerged also by agreement of the parties that there was a side entrance to the subject premises off Duke Lane and also an internal access from Brown Thomas which itself was fronting to Grafton Street.

Mr. Allman made reference to the fact that at first appeal stage the Appellants through Mr. Keogh informed him that the subject premises were held on a lease with rent fixed in 1985 with five year reviews. This had subsequently been clarified, in the submission to the Tribunal by the Appellant, in relation to the lease being for 35 years with rent fixed at £85,000 and rent reviews every seven years. The Tribunal is pleased that the parties were in a position to make a submission to it on the basis of agreed terms of a lease but wonders why this matter of fundamental importance could not have been clarified from the very outset at first appeal stage. It is hoped that parties dealing with appeals and revisions would find it possible to furnish accurate information on the tenure and terms of leasehold of properties under revision or appeal at the earliest possible moment in the process.

While the various comparisons offered by the parties were debated fully, the importance of Waterstones premises, a bookshop like the subject premises on almost the exactly opposite side of the street, emerged as the most relevant comparison. The relevance of the comparison was all the more so as the valuation of Waterstones had been recently revised in relation to the same valuation period as that of the subject appeal. Mr. Allman submitted a breakdown of the valuation of No. 7 Dawson Street being part of Waterstones and this is annexed to the judgment and marked Appendix C. This analysis is based on a devaluation for Zones A, B and the balance of the ground floor. Mr. Keogh submitted that in the case of the subject premises a larger retail area would require a Zone C to be introduced into the analysis. He put in evidence a second document (annexed to this judgment and marked Appendix D) applying the analysis of 7 Dawson Street to the subject premises. While the Tribunal cannot accept the strict application

put forward by Mr. Keogh of the zoned analysis of 7 Dawson Street which is based on rent of £61,000 passing and not on the N.A.V. as established by agreed revision, it does, however, accept that the zoning proposed by Mr. Keogh would decrease the estimated N.A.V. of the subject premises as calculated by Mr. Allman. The value of the third and fourth floors and the basement of the subject premises may not be as high as Mr. Allman would estimate.

A second check on the view that Mr. Allman's estimation of the N.A.V. on a zoning and square footage basis of £178,583 for the subject premises may be done on the basis of rent passing and capitalised value of premium and refurbishment costs. Mr. Allman's figure was £180,000. However the Tribunal is not satisfied that the premium ought to be discounted over 3.5 years and, as it is a capital item, in relation to the acquisition of any premises it would more appropriately be discounted over a period approaching 10 years. Similarly the value of refurbishment of £500,000 might be discounted over 10 years and it is usual to accept in these cases that a substantial portion of the costs of refurbishment by a new tenant would relate to tenants fixtures and fittings which would not add to the letting value of the premises. In this case the Tribunal is disposed to consider that of the £500,000 spent on refurbishment £300,000 thereof would improve the letting value of the subject premises varied somewhat by indexation. Having regard to the foregoing, and all the comparisons offered the Tribunal is of the view that the appropriate N.A.V. for the subject premises is £160,000.

It is noted that both parties propose and agree that 0.63% is the appropriate percentage which is to be applied to Net Annual Value to yield the rateable valuation. The Tribunal therefore determines that the rateable valuation of the subject premises is £1,005.

