

Appeal No. VA91/3/022

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

**Burger Master**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Shop at Lot No. 1ilk/Unit 3 Palmerstown Shopping Centre, D.E.D. Palmerstown West,  
District of Dublin - Belgard, Co. Dublin

Quantum - Valuations to remain in place for five years if circumstances unchanged

**B E F O R E**

**Padraig Connellan**

**Solicitor (Acting Chairman)**

**Brian O'Farrell**

**Valuer**

**Veronica Gates**

**Barrister**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 28TH DAY OF FEBRUARY, 1992**

By notice of appeal dated 9th day of October, 1991, the appellants appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £82.00 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that the Rateable Valuation is excessive and inequitable in view of the situation and other factors R.V. should have remained on valuation originally determined.

### **THE PREMISES**

The property comprises a retail unit in the Palmerstown Shopping Centre. The shopping centre is situated on the western side of the Kennelsfort Road Upper which joins the Ballyfermot Road to the Lucan Road. The property consists of a ground floor shop unit in the Palmerstown Shopping Centre which comprises 13 units and a Super Valu Supermarket. The subject unit, Unit 3 is a centre of terrace unit comprising circa. 1,000 square feet. Services including water, sewage, electricity and telephone cables are supplied and connected to the entire complex.

### **VALUATION HISTORY**

The Palmerstown Shopping Centre was built in 1988 and was valued for rateable valuation purposes in the 1989 revision. This revision resulted in a rateable valuation of £65 being placed on unit 3, the subject of this Tribunal appeal. This was appealed to the Commissioner of Valuation in 1989 and on first appeal he made no change in the rateable valuation. The Shopping Centre came up for revision in 1990 and Unit 3 was revalued at £85. This figure was a subject of an appeal to the Commissioner of Valuation and on first appeal he reduced the rateable valuation to £82. It is this determination of the Commissioner of Valuation that is now the subject of this appeal to the Tribunal.

### **WRITTEN SUBMISSIONS**

A written submission was received on the 13th January, 1992 from Mr. Tony Brooks of Tony Brooks and Company, Valuation Rating and Property Consultants on behalf of the appellants. In this Mr. Brooks said that the Net Annual Value of the property was agreed with the Valuation Office at £13,000. Commenting on the valuation history of the premises Mr. Brooks said that the property was revised in 1989 revision and the rateable valuation fixed at £65 and following an appeal to the Commissioner no change was made in that figure. In the 1990 revision the rateable valuation was increased from £65 to £85 to reflect the decision by the Commissioner to amend the fraction applied to the Net Annual Value from .5% to .63%. Mr. Brooks outlined

several reasons why in his opinion the rateable valuation should be restored to the 1989 level, including the fact that no change in the Centre nor in this Unit took place to warrant the increase from £65 to £82, the deterioration of the Centre between the relevant dates for reasons including the opening of other Centres such as the Tallaght Town Centre, Shopping Centre and the improvement of some other Centres. He said that there was a failure of the marketing strategy employed in this Centre which resulted in the absence of any anchor tenant of substance and the absence of any Banks, Building Societies and Off-licences etc. In summary Mr. Brooks said that there was a disappointing uptake on the units in the Centre which, coupled with the increased opposition from surrounding large and small Centres, had resulted in a disappointing early start to the Centre.

A written submission was received from Mr. Colman Forkin, Appeal Valuer in the Valuation Office on behalf of the Respondent on the 23rd December, 1991. In this written submission Mr. Forkin outlined the details of the property and its valuation history. Mr. Forkin says that the Net Annual Value of the property was agreed with Mr. Tony Brooks at £13,000. He then outlined his calculation of Rateable Valuation as follows:

<b><u>Unit 3 Zone A-</u></b>	460 sq ft @ £19 psf	=	£ 8,740
<b><u>Zone B-</u></b>	460 sq ft @ £9 psf	=	£ 4,140
<b>Remainder</b>	14 sq ft @ £9 psf	=	<u>£ 126</u>
			£13,006
			<b><u>Say £13,000</u></b>
	Estimated N.A.V. £13,000 X .63%	=	£81.90
			<b><u>Say £82.00</u></b>

### **ORAL HEARING**

The oral hearing took place on the 17th January, 1992 and the appellants were represented by Mr. Brian Sherry Solicitor and Mr. Tony Brooks of Messrs Tony Brooks & Company, Valuation

Rating and Property Consultants and the respondent was represented by Mr. Colman Forkin. Mr. Sherry argued along the lines of the written precis and also that as the property had only been recently valued the appellants had a grievance relative to the valuation the subject of this appeal. The valuation was revised in 1989 at £65.00 and following a first appeal the Commissioner made no change when he issued his decision in 1990. He expressed a view that the revision was unnecessary and inequitable stating that the N.A.V. has not changed from November 1989 and that the valuation under appeal represented a 20% increase in R.V. since the previous year. Mr. Forkin elaborated on his written precis and said that there had not been any evidence of a downward trend in business and that he carried out his valuation as he saw it at the relevant time of inspection. An N.A.V. has been agreed between the parties at £13,000.

### **DETERMINATION**

The Tribunal has considered all the evidence including the comparisons and the location of the premises the subject of this appeal and is mindful of its views expressed in appeal VA/89/24 North Kerry Milk Products Limited -V- Commissioner of Valuation that continued revisions of property should not be effected. In that case it expressed the wish that valuations fixed should remain in place for an appreciable length of time which time it regarded as not less than 5 years where no change in the relevant premises had occurred. In the present case under appeal the 1990 revision took place before the 1989 revision decision by the Commissioner on first appeal. Whilst the N.A.V. has been agreed no evidence has been shown in support of the applicability of .63% as a percentage of N.A.V.. Section 5 sub-section (1) and (2) of the Valuation Act 1986 aims to establish uniformity of valuations using premises of a similar function producing a common reducing factor which can be reasonably and equitably used. The Tribunal is satisfied that the most suitable and appropriate comparison is the 1989 revision figure and finds, in all the circumstances of the case, the correct R.V. of the premises under appeal is £65.00.

