

Appeal No. VA91/3/027

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

**R.H. Leonard Bective Electrical Company Limited**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Shop and Store (ground floor) at Lot No. pt 70, Woodland, Stillorgan, Co. Dublin  
Quantum - Passing rent, tone of the list

**B E F O R E**

**Henry Abbott**

**Barrister Chairman**

**Mary Devins**

**Solicitor**

**Brian O'Farrell**

**Valuer**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 6TH DAY OF FEBRUARY, 1992**

By notice of appeal dated 10th day of October, 1991, the appellants appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £90 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that "the valuation on this premises has been increased outrageously (almost 30%) in one year even though there is an annual adjustment made every year on the level of business, and the level of business has not increased by the same extent, nor does this premises have the same level of exposure as it is off the Main Road as other shops in the area".

**THE PREMISES**

The premises comprises a shop of 1,200 square feet, with stores/office of 500 square feet all on the ground floor. It is let on a 35 year lease, with 5 yearly reviews, from January 1982 at a rent of £15,000 agreed at January 1982. At the 1987 review the rent of £15,000 was continued. The subject premises is one of a parade of shops opposite the Stillorgan Shopping Centre and is set back from the Main Road.

**VALUATION HISTORY**

When the company commenced trading in the subject premises in 1981 the rateable valuation was £58. This was revised and agreed at £70 at 1984 first appeal stage. The premises was again listed for revision in the 1990 revision list and the valuation was increased to £95. This was reduced to £90 at first appeal stage. It is against this determination of the Commissioner of Valuation that the appeal now lies with the Tribunal.

**WRITTEN SUBMISSIONS**

A written submission was received from the appellant on the 16th January, 1992. In this Mr. Leonard said that the business has relatively no passing trade due to its location. He said that even though there was a considerable investment in the premises over the years the rate of increase in sales has been low and greatly below expectations. He said that this must be put down to the location of the subject premises being at the end of the block of shops and out of sight of the general public. Mr. Leonard said that there has been no increase in rent payable. He said that the total rateable valuation of the whole premises has now been increased from £95 to £115 whereas the valuation of the whole premises adjacent was increased to £90 and reduced to £78 on appeal. He said that comparisons with other premises in the area are not applicable because of the location and consequently the formula arrived at is not relevant. Mr. Leonard said that if the rates payable were related to the increase in sales then they would be in line with the existing valuation of £70. He said that there is no increase in business other than in line with

inflation and that to increase the rateable valuation by 28.57% does not seem equitable. Mr. Leonard suggested that the existing valuation of £70 is a more just and fair amount.

A written submission was received on the 14th January, 1992 from Mr. Raymond Sweeney, a District Valuer in the Valuation Office on behalf of the Respondent. In this Mr. Sweeney outlines the valuation history and describes the property. Mr. Sweeney said that it is accepted that the property is not in direct line of passing trade being somewhat back from the Main Road. He said, however, that any such disadvantage would be reflected in the passing rent of £15,000 which was agreed between the landlord and tenant. He said that a ratio of .63% applied between net annual value and rateable valuation was agreed in respect of all properties in the Stillorgan area which are comparable. Mr. Sweeney said that it had not been suggested by the occupier that the rent passing is other than an open market rent. He said that it is possible that the premises, if offered for letting in November 1988, would have achieved a rent in excess of £15,000. Mr. Sweeney sets out his calculation of the rateable valuation as follows:-

**Valuation Basis**

Rent passing £15,000 X 0.63%	=	R.V. £95
Allow "Rent/Rates Equation" adjusted to R.V.	=	£90

Mr. Sweeney said that he considers that the assessment on the basis of net annual value of £15,000, with rent/rates equation allowance, is somewhat favourable to the appellant. Mr. Sweeney attached a schedule of the other properties in the complex showing the net annual value agreed, the ratio between net annual value and rateable valuation which was applied and the rateable valuation. This is attached as an appendix to this judgment.

## **ORAL HEARING**

The oral hearing took place on Wednesday the 22nd January, 1992 at which Mr. Leonard represented himself and Mr. Raymond Sweeney represented the respondent. During the course of the oral hearing both Mr. Leonard and Mr. Sweeney gave evidence on the lines set out in their precis of evidence and summarised above. Mr. Leonard laid great emphasis on the very poor location of the subject premises. He said that his shop is not visible from the main Shopping Centre across the road and that it is very difficult to get people to do a spontaneous type of purchasing in his shop. He said that he even tried late night openings but to little avail. Mr. Leonard also stressed that the rate in the pound had gone up from £34.82 to £35.86 this year.

Mr. Sweeney laid great emphasis on the fact that there had been a major revision of all properties in the Stillorgan area and that a very high degree of uniformity had been reached by the application of the ratio of .63% between net annual value and rateable valuation. Mr. Sweeney said that this is the only property in this area not to have accepted the first appealed decisions. He laid great emphasis on the fact that the passing rent was agreed in 1982 and not revised upwards in 1987. Mr. Sweeney also said in response to the Chairman that he could see no reason why there should be any revision of the Stillorgan area for quite some time.

## **FINDINGS**

The Tribunal has great sympathy with Mr. Leonard and is acutely aware of the difficulties that small businesses are facing in carrying increasing overheads. However, it is also very conscious of the need for uniformity in the rateable valuation system and of the efforts made to achieve this in the Stillorgan area. The Tribunal is also conscious of the fact that the passing rent in the instant case was agreed as far back as January 1982 at £15,000 and that this has not been increased since then. Accordingly the Tribunal feels that it has no option but to uphold the decision of the Commissioner of Valuation at first appeal stage in fixing a rateable valuation of £90 on the above hereditament.

