

Appeal No. VA92/2/062 & 064

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

**D. Crowley & Co. Ltd**

**APPELLANTS**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Shop and Small Garden at Lot No. 175b and Shop at Lot No. 176a, Main Street, Townland of Dunmanway North, E.D. Dunmanway North, District of Dunmanway, Co. Cork  
Quantum - Passing rent on adjoining lots

**B E F O R E**

**Mary Devins**

**Solicitor (Acting Chairman)**

**Padraig Connellan**

**Solicitor**

**Veronica Gates**

**Barrister**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 26TH DAY OF FEBRUARY, 1993**

By notice of appeal dated the 27th day of March, 1992 Mr. Tom Mc Sweeney of D. Crowley & Company Limited appealed on behalf of the appellant against the determination of the Commissioner of Valuation in fixing a rateable valuation of £28 and £19 respectively on the above described hereditaments.

The grounds of appeal as set out in the Notice of Appeal are that "the valuation is unfair given the nature, income, situation and location of the property".

### **The Property**

The subject properties are located at the Square, Dunmanway. Lot No. 175b consists of a three storey terraced property with the drapery shop on the ground floor, display and stores on the first floor and storage on the second floor. Lot No. 176a comprises part of the ground floor of a terraced three storey property trading as a drapery shop. Both shops interconnect at ground floor level. Substantial refurbishment and repairs were carried out in 1977. The agreed floor areas are:

Lot No. 175b -Ground Floor Shop	958ft <sup>2</sup>
First Floor Display & Stores	678ft <sup>2</sup>
Second Floor Storage	502ft <sup>2</sup>
Lot No. 176a -Ground Floor Shop	763ft <sup>2</sup>

### **Title**

Lot No. 175b is held on a 99 year lease from 1904 at an annual rent of £22.78. The freehold of lots 176a and 176b, comprising shop and dwelling house was purchased in 1985.

### **Valuation History**

Lot No. 175b was first valued as a shop and store in 1975 when a valuation of £23 was placed on the property. The revising valuer calculated the area of the ground floor shop at 646ft<sup>2</sup>. The balance of the ground floor was used as a store.

Lot No. 176 - The old valuation of £15.50 on buildings described as house and offs dates from 1859, or earlier.

In 1990, following a request from Cork County Council to value a drapery shop, the valuation of Lot No. 175b, 176 was fixed at £65. This valuation was appealed to the Commissioner of Valuation.

As lot No. 175b is held by the Appellant on a long lease; lot 176 is held freehold; part of Lot No. 176 is separately occupied by Thomas Mc Sweeney; it was necessary at first appeal to create 3 lots as follows:-

Lot No. 175b	Shop and Small Garden	R.V. £28
Lot No. 176a	Shop (ground floor)	R.V. £19
Lot No. 176b	House and Small Garden	R.V. £18

Thus there was no reduction at first appeal, the total rateable valuation remaining at £65. However, because of difference in both title and occupation, 3 new lots were created to comply with normal practice.

### **Written Submissions**

A written submission was received from Mr. Patrick J. Nerney, Valuation Consultant on the 9th October, 1992 on behalf of the Appellant. In the written submission Mr. Nerney described the properties and the valuation histories thereof.

In the written submission Mr. Nerney set out his estimate of the Net Annual Values of Lots 175b and 176a as follows:-

#### **N.A.V. - Lot No. 175b:**

Shop (part) Ground Floor	958ft <sup>2</sup> @ £3.00	=	£2,874
Display/Storage: 1st Floor	678ft <sup>2</sup> @ £1.25	=	£ 848
2nd Floor	502ft <sup>2</sup> @ £0.50	=	<u>£ 251</u>

£3,973

**R.V.:**

N.A.V. £4,000 @ 0.5% = £20

**N.A.V. - Lot No. 176a:**Shop (part) Ground Floor 763ft<sup>2</sup> @ £3.00 = £2,289**R.V.:**

N.A.V. £2,300 @ 0.5% = £12

He also stated that in arriving at his calculations of Rateable Valuation he had regard to the general location and state of the buildings. He described Dunmanway as a small town, population 1,500, with a limited hinterland. He stated that while the shop is valued in two parts it is for practical purposes a single shop and as such is not likely to command rental proportionate to that which might obtain for smaller units. Mr. Nerney submitted that the most realistic evidence of value was the price of £40,000 paid for the freehold of lots 176a and 176b and calculated the Net Annual Value on the basis of 9% of £40,000 amounting to £3,600, taking two thirds for the shop (lot No. 176a) amounted to N.A.V. £2,400 which on an R.V./N.A.V. ratio of .5% gives an R.V. of £12.

Mr. Nerney stated that a check on the Valuation Lists indicated that with the exception of a bank and supermarket no shop premises in the vicinity of the subject carries a valuation approaching that of the total of £65 on the subject. Mr. Nerney attached a schedule of a representative number of valuations and these are attached as Appendix 1.

A written submission was received on 12th October, 1992 from Mr. Liam Cahill a Valuer with 12 years experience in the Valuation Office on behalf of the Respondent. In the written

submission Mr. Cahill described the property and the valuation history attaching to it.

Commenting on the appellant's grounds of appeal Mr. Cahill stated that:-

"The valuation of Lot No 175b was fixed at £23 in 1975. Since 1975 the retail area on the ground floor has been extended from 646ft<sup>2</sup> to 958ft<sup>2</sup>.

Lot No. 176 was first valued as a commercial property in 1990. The previous valuation of £15.50 dates from 1859. This valuation took no account of the commercial usage of the building.

Neither valuation took account of the substantial improvements carried out in 1977 at a cost of £22,000.

The valuations on both lots prior to 1990 revision of valuations did not comply with the requirements of the 1986 Valuation Act in particular Sections 5(1) and 5(2)."

Mr. Cahill set out details of his calculation of the R.V. on the subject premises as follows:-

**Lot No. 175b - Estimated N.A.V.:**

Ground Floor	958ft <sup>2</sup>	@	£5.00ft <sup>2</sup>	=	£4,790
First Floor	678ft <sup>2</sup>	@	£1.50ft <sup>2</sup>	=	£1,017
Second Floor	502ft <sup>2</sup>	@	Nil	=	<u>£ -</u>
					£5,807

**Estimated R.V.**

Say N.A.V. £5,600 @ 1/200 = **£28 R.V.**

**Lot No. 176a - Estimated N.A.V.:**

Ground Floor	763ft <sup>2</sup>	@	£5.00ft <sup>2</sup>	=	£3,815
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**Estimated R.V.**

$$\text{N.A.V.} \quad \text{£3,800 @} \quad 1/200 = \quad \underline{\underline{\text{£19 R.V.}}}$$

Mr. Cahill stated that his calculation of R.V. was based on an analysis of the rents passing at Dunmanway Shopping Centre.

### **Oral Hearing**

At the oral hearing which took place in Cork on 15th October, 1992 and was resumed in Dublin on the 12th February, 1993, the appellant was represented by Mr. Pat Farrelly, Solicitor, of Messrs. F. O'Mahony & Company, Bantry, Co. Cork. Also present were Mr. Patrick J. Nerney, Valuer and Mr. Tom Mc Sweeney, director of the appellant company.

Mr. Liam Cahill of the Valuation Office appeared on behalf of the respondent.

Mr. Farrelly stated in evidence that during the 50 years in which Mr. Mc Sweeney had worked in the premises, there had been virtually no internal changes. He submitted that the amount of approximately £20,000 spent in 1972 had been for essential works and not improvements, viz, repairs to the roof, walls, windows and floors, all of which had rotted.

Mr. Farrelly pointed out that Dunmanway was a small town, with no tourist trade and a very limited commercial success, as evidenced by the failure of a nearby shopping centre known as 'The Young Centre'.

Mr. Nerney explained that the only increase in the area of Lot No. 175b was the inclusion of an existing store. He submitted that the purchase price of £40,000 in 1985 for Lots 176a and 176b was a good indication of true value.

He referred to the comparisons adduced by Mr. Cahill and pointed out that these were all small units and not truly comparable.

Mr. Nerney further submitted that since the shopping centre was so slow to take off it was difficult to value all units at the same time.

Mr. Cahill referred to his written submission and seemed to place greater reliance on the lease of Lots 176a and 176b, dated 21st August, 1984 than the purchase of the freehold in 1985. He stressed that the rent of £4,500 dating from 1985 did not take account of any works or improvements to be carried out.

Mr. Cahill further submitted that the best way of estimating N.A.V. was on the basis of an adjusted rent passing. He disputed Mr. Nerney's figure of a 9% yield of capital value, and said that contrary to Mr. Nerney's opinion, the more inferior the town the higher the yield expected.

### **Findings**

The Tribunal notes that the comparative properties appended to Mr. Cahill's submission are in the main either small units or larger units, parts of which are unlet, and all of which are in a shopping centre which appears to be struggling.

While the rent passing in relation to Lots 176a and 176b should not be ignored as a guideline in assessing the N.A.V. of Lots 176a and 175b the Tribunal has considered it to be no more than that.

The subject premises are undeniably old-fashioned and somewhat cumbersome in lay-out.

The Tribunal accepts the appellant's evidence in relation to the nature of the works carried out in 1972 for the sum of £20,000.

It notes, too, Mr. Farrelly's submission that the lease of 1984 was executed before Mr. Mc Sweeney purchased the freehold and that the difficulty in sustaining the rent may have been a factor in the said purchase.

Taking into account the inherent disadvantages of the subject hereditament, the generally depressed state of Dunmanway and the evidence as to N.A.V., the Tribunal is of the opinion that the correct R.V. of Lot No. 176a is £17 and that of Lot No. 175b is £25, and so determines.