

Appeal No. VA92/2/070

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

Ernie Mooney t/a Kilnarnanagh Travel Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop at Unit 19A, Kilnarnanagh Shopping Centre, Kilnarnanagh, E.D. Tallaght-Kilnarnanagh, Co. Dublin
Quantum

B E F O R E
Henry Abbott

S.C. Chairman

Paul Butler

S.C.

Brian O'Farrell

Valuer

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 9TH DAY OF OCTOBER, 1992

By notice of appeal dated the 19th day of March, 1992, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £52 on the above described hereditament.

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

"The rate is still excessive. A rate of between £40 and £45 would reflect more equitably the fact that all that is being rated is a small box with no services provided. Some of the Dunnes controlled shops in the centre have had their rates cut by 50%."

The Property:

The property unit 19A, is situated in Kilnarnagh Shopping Centre on Mayberry Road which in turn is located in a residential area between Greenhills Road and Belgard Road. The property consists of a rectangular-shaped unit measuring 280 sq.ft. with a frontage of almost 15 sq.ft.. It is held on a 35-year lease from the 1st January, 1989 with 5-year rent reviews, the rent having been reviewed in 1984 to £6,250 and reviewed in 1989 to £12,350.

Kilnarnagh Shopping Centre is mainly a single storey building fronting onto an extensive tarmacaded carpark consisting of almost 500 car spaces. Access to the units is via a central mall. The centre was opened in 1978. Dunnes Stores are the anchor tenants and they also occupy a number of units. As at May 1990 there were 15 tenants of which two were subsidiaries of Dunnes. Eleven tenants appealed to the Commissioner against the revised R.V.'s and all but two were agreed at first appeal.

Valuation History:

Kilnarnagh Shopping Centre was first valued in 1978. The subject unit was then valued as a store, used in conjunction with Units 8, 9, 11 and 20. In 1982 it was valued separately as a shop to Intercontinental Travel Limited with an R.V. of £37. This valuation was reduced to £27 at first appeal stage. No further change took place until the 1990/2 revision, when, as part of the general revision of shopping centres in the Dublin area, the entire centre was listed by Dublin County Council to "revise and update". At this stage the R.V. was increased to £77. The then Appellant Intercontinental Travel Limited appealed this valuation to the Commissioner of Valuation. The outcome of this appeal was to have the valuation reduced to £52 and from this decision the Appellant has appealed.

Written Submissions:

A written submission was submitted on behalf of the Respondent to the Tribunal on the 17th July, 1992. In it the Respondent allowed for a lower N.A.V. than the passing rent arising from the 1989 valuation. The basis of the Respondent's valuation was as follows:-

Basis:

$$280 \text{ sq.ft. @ } £33 \text{ PSF} = £ 9,240$$

Applying the rates impact formula to allow for the effect of increased rates on rental levels.

$$9240 + (32.13 \times 27) = 10,108$$

$$1 + (0.63\% \times 32.13) = 1.2024$$

$$\text{Adjusted N.A.V.} = 8407 \text{ (£30 P.S.F.)}$$

$$\text{R.V. @ .63\%} = £52.96 \text{ say } £52$$

Note The R.V. at 1990/2 revision was based on the passing rent i.e. £12,350 x 0.63%.

A written submission was received by the Tribunal on the 22nd July, 1992 from Kilnarnagh Travel Limited, the existing tenant. In this submission the Appellant relied on the fact that The Square in Tallaght has seriously reduced competitiveness of units in the Kilnarnagh Centre and that the Dunnes owned shops fared considerably better in the revaluation arising from the first appeals. It was submitted further that services were not provided by the County Council and that the Appellant sought more fair play in the system.

Oral Hearing:

The oral hearing took place herein on the 27th July, 1992 attended by the appellant Mr. Ernie Mooney, Managing Director of Kilnamanagh Travel Limited and at which Mr. Stephan Dervan represented the Respondent. Both Mr. Mooney and Mr. Dervan relied on their written submissions which are summarised above. Mr. Mooney argued that the revised rent constituted an uneconomic rent and indicated that the Dunnes Stores owned premises had fared better on first appeal than his own premises. He pointed to the fact that three of the units were currently vacant. Mr. Dervan stated that he had made allowances for the fact that the passing rent for the subject premises was higher than N.A.V. and he indicated that he had used the passing rents for other premises particularly the Easy Knit unit in Kilnamanagh Shopping Centre to determine the N.A.V. figure upon which his assessment of £52 rateable valuation was based. Mr. Dervan also countered Mr. Mooney's arguments that Dunnes Stores owned premises had fared better and he indicated that these premises had been increased by a higher percentage rate at the revision stage and suggested that the valid comparison was on the basis of the comparison of the figure resulting from first appeal decision with the unrevised figures. He also suggested that the reason for the vacancy of the three units in the centre probably arose from corporate or group decisions and circumstances rather than from particular trading circumstances in the Kilnamanagh Centre.

Determination:

While the Tribunal sympathises with Mr. Mooney in relation to his complaint of a high rent coupled with the inevitable increases arising from the revision of the rateable valuation, nevertheless it considers that Mr. Dervan's approach to the case has been basically correct. However, relying on this approach the Tribunal considers that the Easy Knit comparison might have been used somewhat more to the benefit of the appellant. The Tribunal also considers that the prospect of the Tallaght Shopping Centre taking away trade from the Kilnamanagh Centre was a factor present even in May of 1990. Having regard to the foregoing, and all the

circumstances of the case, and substantially adopting Mr. Dervan's methodology of valuation, the Tribunal finds that the valuation of the subject should be £49.