

Appeal No. VA92/3/017

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

Topline Fashions Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop and Car Park (Part of) at Map Ref: 2.4.6 Main Street Lower, Town of Buncrana, Townland of Ardravan, Urban District of Buncrana, E.D. Buncrana Urban, Co. Donegal
Quantum - Preliminary point of law

B E F O R E

Henry Abbott

S.C. Chairman

Mary Devins

Solicitor

Veronica Gates

Barrister

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 16TH DAY OF DECEMBER, 1993

By Notice of Appeal dated the 22nd day of May, 1992 the appellant appealed against the determination of the Commissioner of Valuation in fixing a Rateable Valuation of £180 on the above described hereditament.

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

1. The Valuation is excessive and inequitable.
2. The Valuation is bad in law.
3. No account is taken of the Net Annual Value as on the 30th November, 1988 in arriving at the Rateable Valuation assessment of this hereditament.
4. The Valuation is bad in law as the fraction of 0.63% being applied to the Net Annual Value is excessive and does not comply with the requirements of

Section 5 of the Valuation Act, 1986.

5. The Valuation is bad in law as a different fraction is being applied to the Urban District of Buncrana relative to the rest of the County.
6. The Valuation is bad in law as a different fraction is being applied to this Urban District relative to other Rating Authorities in the Country. This is against the spirit of the preamble to the Valuation (Ireland) Act, 1852
 "...one
 uniform valuation of Lands and Tenements in Ireland.....".

The Property

The property is situated in a good secondary commercial location on the western side of Lower Main Street, close to its junction with Maginn Avenue and Market Square. The surrounding area is predominantly commercial in character and many of the main financial institutions have branch offices in close proximity.

The property comprises a three storey over basement level terraced building of concrete construction under a pitched slated roof with a gross external frontage of approximately 58 feet to the street. The property has private parking facilities to the rear which in turn adjoins one of the main U.D.C. public car parks. The agreed net internal floor areas are as follows:-

Ground Floor:	Retail:	2960ft ²
Basement:	Retail:	3095ft ²
First Floor:	Retail:	3185ft ²
Second Floor:	Stores:	3466ft ²

The property is held in fee.

Valuation History

Following demolition and reconstruction the Urban District Council listed Lots 2, 4 and 6 Lower Main Street for reassessment under the 1990 Revision. As a result Lots 2 and 4 were amalgamated and valued at £150 and Lot 6 was valued at £60. The appellant was aggrieved by the decision and appealed to the Commissioner of Valuation. Mr. Colfer inspected the premises and the Commissioner of Valuation having considered the report of Mr. Colfer amalgamated the three Lots and reduced the overall valuation to £180.

Written Submissions

The appellant and the respondent delivered submissions which are annexed hereto as Appendix 2 and 3.

Oral Hearing

The oral hearing commenced in Letterkenny, Co. Donegal on the 11th day of March, 1993 when the preliminary issue was heard, and resumed in Buncrana, Co. Donegal on the 9th day of July, 1993. The determination of the preliminary legal point was made on an interim basis on the 21st day of September, 1993, in Buncrana, and not finalised until the delivery of this judgment. The decision on the preliminary legal point opens at the end of this judgment as Appendix 1. The hearing of the quantum issue of this appeal also took place on the 21st day of September, 1993 in Buncrana, Co. Donegal.

The appellant was represented by Mr. Ciaran MacLoclainn, Solicitor, and Mr. Patrick McCarroll, Valuer, gave evidence. The respondent was represented by Aindrias O'Caomh B.L., and Mr. John Colfer of the Valuation Office gave evidence.

Mr. McCarroll, Valuer gave evidence of the existence of a large number of retailing premises in Derry and that two major shopping developments were commencing in Letterkenny nearby.

While the comparisons offered by the appellant impressed the Tribunal, they did however relate to smaller premises generally. The Tribunal accepts that while this premises has a lot of potential, its current internal arrangement may not actually correspond to the most desirable design from the retail point of view. The upper floors and basement are of limited value in view of the general availability of retail space on ground floor level in Buncrana. Mr. McCarroll also gave evidence as to the fact that many of the workers in Fruit of the Loom come in from surrounding regions on buses and by reason of the fact that there was an "in house" canteen in Fruit of the Loom International, many people did not go into Buncrana town for shopping purposes. Buncrana would naturally lose a significant amount of retail activity due to the pull of the larger centres such as Derry and Letterkenny - where significant shopping developments were ongoing.

Having regard to the foregoing and the comparisons offered by each party the Tribunal considers that the valuation should be reduced somewhat. Accordingly, the Tribunal finds that the valuation of the subject is £160.00.

