

Appeal No. VA92/3/018 & 19

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

Tuthills (Crumlin) Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop at Lot No. Unit 21 & 32, Crumlin Shopping Centre, Crumlin Road, Crumlin Road, County
Borough of Dublin
Quantum

B E F O R E
Henry Abbott

S.C. Chairman

Mary Devins

Solicitor

Paul Butler

S.C.

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 10TH DAY OF NOVEMBER, 1992

By notice of appeal dated the 25th day of May, 1992, the appellants appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £126 on the above described hereditaments.

The grounds of appeal are that the valuation is excessive, inequitable and bad in law.

Valuation History

These shop units were first valued in 1975 when the main portion of Crumlin Shopping Centre was completed. The rateable valuation was fixed on both units at £45.

In 1989, all hereditaments at Crumlin Shopping Centre including appellants properties, were listed by the Local Authority for revision of valuation. On revision the rateable valuation was fixed on both units at £126.

The occupier was aggrieved by this decision and through his agent, appealed to the Commissioner of Valuation.

Mr. Aylward was deputed to inspect the property. Having considered the report, the Commissioner affirmed the rateable valuation at £126.

The occupier then lodged an appeal to the Valuation Tribunal against the decision of the Commissioner of Valuation.

The Property

The properties in these appeals are adjoining shop units occupied by the appellants at Crumlin Shopping Centre. This centre is located beside Crumlin Road, near the junction with Sundrive Road and Old County Road, 4 miles approximately south west of Dublin City Centre.

Crumlin Shopping Centre, built in 1973/74, consists of 48 shops and 2 major stores (Quinnsworth and Dunnes Stores Ltd). The subject units are within the Shopping Centre with frontage on the Shopping Mall.

Mr. Aylward inspected the properties in November 1990 and found that the hereditaments formed part of a larger shop unit. The shops were attractively laid out and well stocked.

Almost the entire frontage of the units open to the Shopping Mall when the shops are trading. A section to the rear of the units has been partitioned off to form a storage area. A toilet is located within this storage area.

The units are held on a 35 year lease from 1974 with 5 yearly rent reviews at a rent of £25,000 per annum (1989 review). The units are in good repair throughout. All main services are connected.

Written Submissions

Mr. Patrick J. Nerney, Rateable Valuation Consultant submitted a written submission to the Tribunal on the 15th September, 1992 on behalf of the appellant and Mr. Shay Aylward, B.Comm, Valuer with 18 years experience in the Valuation Office furnished a written submission on behalf of the respondents to the Tribunal on the 31st August, 1992.

The appellants in their written submission submitted as follows:

"Premises originally comprised two adjoining but separate shop units in an intermediate location on one of the two malls in Crumlin Shopping Centre.

Appellants leased unit 31 for 35 years from 1974 at £2,750 per annum subject to 5 yearly reviews. Reviewed rents in 1984 and 1989 were £12,800 and £25,000.

Unit 32 adjoins 31 and is held on similar terms. Tuthills acquired interest in lease of Unit 32 in 1987 and removed party wall to form a single shop of 1,554 square feet.

Each of the units was initially valued at £45 and increased to £126 on revision of valuation in 1990. No change was made in either of the two valuations on 1st appeal.

Eighteen other units were valued at £126 on 1990 revision and no changes were made in the valuations of the 14 which were the subject of 1st appeal. Two units valued at £140 and one at £130 were each reduced to £126 on 1st appeal.

The valuations of units 35 and 36 were reduced from £280 to £270 and £220 to £200 respectively on 1st appeal.

Gleeson Meats Limited also operate two adjoining units, 29 and 30, as a single shop with two separate valuations of £126 each which remained unchanged following 1st appeal.

It would seem that no distinction has been made in valuation terms between the smaller shop units of 777 square feet and double units such as the subject (1,554 square feet) which are operated as single shops.

It was also submitted that inadequate allowance has been made for the fact that rents in the Centre are patently high. Unit 33 adjoining Tuthills has been vacant for almost a year. Greengrocery opposite the subject is vacant. Unit 5 has also been closed periodically and I understand that despite being offered for sale with the added inducement of first six months rent free - worth £12,500 based on current rent - remains unsold. Tuthills also failed in attempts to sell. A unit fronting Crumlin Road is also vacant. Occupiers of one of the larger units in a prominent location are reputed to be desirous of vacating.

It was submitted that the Net Annual Value of units 31 and 32 combined is £31,000 and a fair valuation on each units is £98 viz:-

Net Annual Value

Total area of Units 31 & 32 1,554ft² @ £20 = £31,080

R.V.

NAV £31,000 @ 0.63% = £195

Fair R.V., say, £98 on Unit 31 and £98 on Unit 32.

The valuation on Unit 35 by comparison was fixed at £270 on first appeal. Estimated area is 1,650 square feet and assuming R.V./N.A.V. of 0.63% the NAV per square foot is £26 which is of the same order as that of the subject.

Unit 35 is on a corner location with 35 feet frontage to the same mall as the subject and 30 feet to the second mall. Unit 35 and the subject double unit are relatively close in size and it is submitted that a differential of 25% in the respective NAV's per square foot is little enough to reflect the difference in location and other adverse factors none of which appear to have been taken into account by the Commissioner.

Comparison with Unit 36 with an estimated area of 1,200 square feet, R.V. £200, and also on a corner location gives a similar result for the subject when an allowance of 25% is made as previously. Estimated N.A.V. of Unit 36 is £26.50 per square foot assuming R.V./N.A.V. of 0.63%

It was understood by the appellants that the 1989 reviewed rents in Crumlin Shopping Centre were largely based on the letting of Unit 33 (777 square foot) to Fuji (Ireland) Limited, a short time previously at £25,000 per annum. Reference has already been made to the fact that Fuji vacated the unit and it has remained vacant for almost a year.

Appellants consider that the opening of 'The Square' in Tallaght adversely affected business in Crumlin Shopping Centre. They also consider that lack of supervision in the car parking area is a drawback.

A further major disadvantage, in their view, lies in the fact that Dunnes Stores, owners of the Centre, operate a number of units rather than a single store."

The valuation and comparisons urged by the appellants are as follows:

Valuation Method:

The rateable valuation of this hereditament has been determined by reference to the many comparable units in Crumlin Shopping Centre.

Rateable Valuation:

Rent fixed for 1989 review date £25,000

Allowances were made for:

- (a) The growth in shop rents in the period November 1988 to mid 1989.
- (b) The possible effects of the use by the landlord of the 'disregard' clause contained in the lease, to secure agreement to the reviewed rent figure.

Estimated Net Annual Value £20,000

Rateable Valuation £20,000 @ 0.63% = £126

Comment:

This premises is similar to the many comparison properties (R.V. £126) outlined in Section 7.

Comparisons:

- A. Adjoining units held on separate leases but used as one shop.

	Unit No	Occupier	Floor Area (sq. ft.)	Rent '89 Review	N.A.V.	R.V.
a	<u>8A</u>	Smart	<u>424</u>	<u>18,000</u>	<u>14,760</u>	<u>93</u>
	9	Brothers Ltd	1,147	36,420	29,047	183
b	<u>17</u>	Peter	<u>777</u>	<u>25,000</u>	<u>20,000</u>	<u>126</u>
	18	Mark Ltd	777	25,000	20,000	126
c	<u>24A</u>	Mannings	<u>707</u>	<u>21,000</u>	<u>16,825</u>	<u>106</u>
	25	Bakery Ltd	777	25,000	20,000	126
d	<u>29</u>	Gleeson	<u>777</u>	<u>25,000</u>	<u>20,000</u>	<u>126</u>
	30	Meats Ltd	777	25,000	20,000	126

These rateable valuations were fixed at '90 1st Appeals.

B. Single standard shop units (777 sq. ft.) with rateable valuations of £126 each.

These units have frontage onto the Shopping Mall:-

Unit No.'s: 2,3,4,4B,5,6,12,13,14,15,19,26,27,31,32,33,34.

Oral Hearing

The oral hearing took place on the 18th day of September, 1992 in Dublin. Mr. Patrick J. Nerney, Rateable Valuation Consultant, Valuer and Auctioneer represented the appellants and Mr. S. Aylward, B.Comm a graduate of the A.C.C.A. and a District Valuer with 18 years experience in the Valuation Office appeared for the respondents.

Evidence was given by both representatives along the lines of their written submissions. In addition Mr. Peter Patton an experienced manager of the appellants gave evidence of the type of trading conditions in which the subject premises found itself and also of the somewhat unusual conditions of tenure which he said adversely effected tenants rights significantly and left them in

a situation were they had to pay rents over and above the ordinary. Mr. Aylward agreed that the landlords were extracting every last penny if not more out of the tenants and pointed out that he had given credit for this in his estimate of N.A.V..

The Tribunal is highly sympathetic to the appellants claim that rents are over the top in this Centre. The Tribunal considers that on the evidence of Mr. Patton some businesses may find it very difficult to survive in the trading environment created by such high rents. This consideration is backed by the occurrence of a significant number of vacant premises and one premises where a substantial reverse premium is offered for the disposal of the leasehold interest. Nevertheless, the Tribunal is faced with approximately 18 single units all valued on the same basis as that suggested by Mr. Aylward in addition to a number of double units. The owners of these various units were represented by a cross section of the most experienced and professional valuers in the rating area in the Country and the Tribunal finds the evidence of comparative valuations within the Centre to be of coercive influence upon them especially having regard to the provisions of Section 11 of the Act of 1852 as amended by Section 5 of the Act of 1988. Often, the Tribunal finds that it is unsatisfactory to have piecemeal valuation of units in an area or Shopping Centre. There was no such piecemeal selection for valuation in this case, and the Tribunal finds that consistency is a very strong element in ensuring proper and equitable valuation. Mr. Nerney made a strong case to have the so called 'quantum' factor taken into account in arriving at a valuation of a double premises. It appears that the appellants took on the second unit in 1987. In this context the Tribunal was influenced by its decision in appeal number **VA/91/2/14 Ulster Bank Limited -V- Commissioner of Valuation** where the Tribunal stated:

"The Tribunal is mindful of the fact that there is significant commercial buoyancy in the area as evidenced by the appellants purchasing the lease on the premises next door for a significant premium of £31,000."

The Tribunal feels that no account should be taken here of the quantum factor in view of the acquisition history of the two units. Accordingly, the Tribunal finds that the valuation of each premises should remain at £126.