

Appeal No. VA92/6/118

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

Michael Duffy, Shapers Toning Salon

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop at Lot No: 1d, North Street, Townland of Roosky, E.D. Monaghan Urban, Urban District of Monaghan, Co. Monaghan
Quantum

B E F O R E

Henry Abbott

S.C. Chairman

Paul Butler

S.C.

Veronica Gates

Barrister

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 3RD DAY OF MARCH, 1993

By notice of appeal dated the 4th day of November, 1992, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £18 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that this is a start up business, its on the 1st floor, with no display window. It is not on the Main Street and is located in a quiet trading area. The business is still in incubation and is entirely new. If we have to pay these rates we will be forced to close.

The Property

The property consists of a modern finished first floor beauty salon situated at 1d North Road, Monaghan in a secondary location close to the Town Centre. The building itself is an old one.

Valuation History

At 1991 revision the property was valued at £23. In 1991 following first appeal to the Commissioner of Valuation the R.V. was reduced from £23 to £18.

Tenure

The property is held on a 2 year 9 month lease from September, 1990 at £3,640 per annum. The tenant being liable for rates, repairs and internal maintenance.

Written Submissions

A written submission was received on the 23rd February, 1993 from the appellant Mr. Duffy. In his written submission Mr. Duffy described the property as being in a quiet trading location where very little business activity takes place. He stated that they had been in business for only 2 years and were trying to build up the business. He stated that the building itself was an old one which was difficult to heat and consequently he had to install gas heaters because of complaints from customers about the coldness of the salon. He said that only half the floor area was used during the off peak winter months and that they had had to lay off one member of staff after Christmas due to a fall off in custom. He stated that the valuation prior to the 1991 revision had been £6 and he could not understand why the valuation had been increased to £18 when the building was basically the same. He stated that the present level of rateable valuation was excessive and they could not afford to pay it and that it would put them out of business.

Mr. Duffy set out details of three comparisons in the area:-

- (1) Maureen Connolly, 2/3 North Road, Monaghan with a valuation of £13.
- (2) Two premises under the name of Patsy Boyle, The Diamond. One with a valuation of £10 and the other with a valuation of £8.

A written submission was received on the 23rd February, 1993 from Mr. Jim Gormley A.R.I.C.S. a District Valuer on behalf of the respondent. In the written submission Mr. Gormley described the property and the recent valuation history.

He set out his calculation of the Rateable Valuation on the property as follows:-

$$\begin{array}{rcl}
 924\text{ft}^2 & \times & \text{£4/ft}^2 = \text{£3,696 (Net Annual Value)} \\
 & \times & .5\% = \text{£18.48 Say } \mathbf{\text{£18 R.V.}}
 \end{array}$$

He also set out details of four comparisons which are summarised below:-

- (1) 1a North Street, Hair Salon 280 square feet. R.V. £8.
1991 First Appeal.
- (2) 5a North Street, Office 290 square feet. R.V. £8. 1987 First Appeal.
- (3) 1d Mill Street, Hair Salon 422 square feet. R.V. £20. 1991 Revision.
- (4) 1d North Street (Appellant), Beauty Salon 924 square feet. R.V. £18. 1991 Tribunal Decision.

Mr. Gormley also attached a list of 1991 first appeal decisions in the Town of Monaghan and these are set out as Appendix 1.

Oral Hearing

At the oral hearing which took place in the Courthouse, Cavan on the 3rd day of March, 1993 the appellant Mr. Michael Duffy appeared on his own behalf and Mr. Jim Gormley a District Valuer with many years experience in the Valuation Office appeared on behalf of the respondent.

Evidence was given by both parties in accordance with their precis and Mr. Duffy emphasised that he had taken the premises in September, 1990 after they had been vacant for five years. He emphasised the delapidated condition of the premises and the fact that he had to expend considerable sums in making them functional and energy efficient.

He laid great emphasis on the fact that his body toning business was novel in the area and seasonal. At a certain stage a beauty salon was added to the enterprise but this was closed before Christmas in 1992. A second person who was employed in the business was let go due to downturn in 1992.

Mr. Duffy was taken aback by the high increase in rates arising from his valuation increasing from £6 to £18. He stated that had he known that this increase would occur he would not have taken the premises. There was no evidence one way or the other that rents would have been lower in November, 1988.

Findings

The Tribunal is impressed with the aptness of the comparisons offered by Mr. Jim Gormley and considers that these should in fairness to other rate payors influence the decision of the Tribunal. However, in view of the fact that the appellant was adamant that he would have taken a much more cautious approach to say the least in relation to taking the premises had he been aware of the full implications of the increased rate bill which he would have faced, the Tribunal considers that it is not likely that he would have paid as high a rent for the premises. In view of the fact

that the premises appears to have been vacant for a considerable time before the bargain was struck by Mr. Duffy the probability is that the rent closer to the region of £3,000 would have been agreed in the event of full knowledge of the rates implications being available to Mr. Duffy.

Accordingly, having regard to all the comparisons offered and the evidence given the Tribunal considers that the valuation of the subject is £15.