

Appeal No. VA93/1/021

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

Martin McCormack

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop and Stores (Ground and 1st Floors) (2nd and 3rd Floors disused), Map Ref: 101
Lower Leeson Street, Mansion House B2 Ward, County Borough of Dublin
Quantum

B E F O R E
Henry Abbott

S.C. Chairman

Mary Devins

Solicitor

Paddy Farry

Solicitor

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 29TH DAY OF JUNE, 1993

By Notice of Appeal dated the 12th February, 1993 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £85 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that "the assessment is excessive. A rateable valuation of £85 represents a rent of £13,500 per annum rental in 1988. All the evidence indicates that this is excessive. The appeals valuer provided no evidence to the contrary".

The Property

The property is located on the eastern side of Lower Leeson Street between Leeson Lane and St. Stephen's Green. Lower Leeson Street is one way with a contra-flow bus lane. There is no on-street parking. The property consists of a three storey over ground floor premises with Newsagents Shop to ground floor, stores to first, second and third floors disused. The shop has a display window and entrance from Leeson Street with no rear access.

Valuation History

In 1956 the property was revised and valuation fixed at £60 with no change on 1956 First Appeal. In 1960 the valuation was revised and increased to £70 following renovations. In 1986 the property was again revised at the occupiers request and valuation unchanged but on First Appeal a reduction to £63 was made. In 1991 the valuation was increased on revision to £85. No change was made by the Commissioner of Valuation at First Appeal.

Written Submissions

A written submission was received on the 18th May, 1993 from Mr. Donal Fitzpatrick F.R.I.C.S. of James H. North & Company, Valuation Surveyors, Auctioneers, Estate Agents & Property Managers on behalf of the appellant.

In the written submission Mr. Fitzpatrick described the property, its location and accommodation. He said that the property was a tall narrow four storey terraced building with shop on ground floor, stores and toilet accommodation at first floor level. He set out the accommodation as follows:-

Ground Floor

Shop	354 sq.ft.
------	------------

First Floor

Front Store	183 sq.ft.
-------------	------------

Rere Store	66 sq.ft.
------------	-----------

Toilet	-----
--------	-------

Total First Floor Area	249 sq.ft.
------------------------	------------

Second and Third Floors

Disused

In the written submission Mr. Fitzpatrick set out a number of factors affecting the rental value on the subject premises and these are summarised below:-

- (1) The property fronts onto Lower Leeson Street where there is a contra bus lane which is the only one in the City. In addition there

are double yellow lines on the opposite side of the road making parking and loading impossible. Loading bays which had been provided were removed 2 years ago now making it almost impossible for shops to take deliveries.

- (2) Within the last year 2 adjoining units have closed.
- (3) There are 3 shops selling news papers at this end of Lower Leeson Street and also two street vendors.
- (4) A number of businesses have relocated from this area to the Financial Services Centre in the last number of years.

He estimated that the Rateable Valuation on the subject premises should be £60 based on a rental value of £9,325 per annum calculated as follows:-

Ground Floor	354 sq ft @ £20.00 p.s.f. =	£7,080.00
First Floor	249 sq ft @ £ 5.00 p.s.f. =	<u>£1,245.00</u>
	Total	£9,325.00

Mr. Fitzpatrick also supplied three comparisons as follows:-

- (1) Hogges Newsagency, 137 Lower Baggot Street, Dublin 2.
Let for 35 years from June, 1988 with 5 year rent reviews at £10,000 per annum plus rates, internal repairs and insurance.

Analysis:

Shop	490 sq ft @ £16.00 p.s.f. =	£ 7,840.00
Basement/Storage	550 sq ft @ £ 4.00 p.s.f. =	<u>£ 2,200.00</u>
		£10,040.00

Say £10,000.00 p.a.

- (2) 7 Lower Baggot Street, Dublin 2.
Entire building let on an F.R.I. lease for 35 years with 5 year rent reviews from March, 1987 at £20,000 per annum.

Analysis:

Ground Floor Shop	400 sq ft @ £20.00 p.s.f. =	£8,000.00
-------------------	-----------------------------	-----------

Basement Store	326 sq ft	@ £ 6.00 p.s.f.	= <u>£1,962.00</u>
			£9,962.00

Say £10,000.00 p.a.

(3) 21 Clare Street, Dublin 2.

Rent fixed by the Circuit Court from August, 1989 at £8,600 per annum.

Analysis:

Ground Floor Shop	375 sq ft	@ £20.00 p.s.f.	= £7,500.00
Basement Storage	333 sq ft	@ £ 3.00 p.s.f.	= <u>£ 999.00</u>
		Total	£8,499.00

A written submission was received from Mr. Malachy Oakes a District Valuer with 19 years experience in the Valuation Office on behalf of the respondent.

Mr. Oakes described the property and the valuation history and commented on the appellant's grounds of appeal and stated that the assessment was not excessive compared with a close by shop No. 103 Lower Leeson Street which also had a rateable valuation of £85 fixed in 1991. It was let at £13,500 rent as fixed in 1987 review. It was the subject of an appeal to the Commissioner of Valuation in 1991 and the valuation had remained unchanged after appeal.

Mr. Oakes set out his calculation of the Rateable Valuation on the subject premises as follows:-

The Net Annual Value was estimated at £13,500 as follows:-

Ground Floor shop	394ft ²	@ £28	= 11,032
First Floor Stores (used)	248ft ²	@ £5	= 1,240
First Floor Store (disused)	74ft ² }	@ £2.50	955
Second Floor Stores	308ft ² }		
Third Floor disused	Say		<u>200</u>
			13,427

say 13,500

@ .63% = £85 R.V.

and gave the following comparisons to support this valuation.

(1) 102, Lower Leeson Street, Dublin 2.

Occupier: Joseph Leahey
Description: Shop (Ground Floor) store (Basement)
R.V.: £90

- (2) 103 Lower Leeson Street, Dublin 2.
Occupier: Vacant
Description: Shop (vacant) and Store
R.V.: £85

Lock up shop two doors away from subject of appeal.

Oral Hearing

An oral hearing took place on the 2nd June, 1993 at the Valuation Tribunal's Offices in Dublin. The respondent was represented by Mr. Malachy Oakes, a District Valuer with 19 years experience in the Valuation Office. The Appellant was represented by Mr. Donal Fitzpatrick F.R.I.C.S. of James H. North & Company, Valuation Surveyors, Auctioneers and Estate Agents.

The precis of evidence submitted by Mr. Malachy Oakes on behalf of the respondent and the precis of evidence submitted by Mr. Donal Fitzpatrick were opened and considered by the Tribunal. Mr. Fitzpatrick, depending on the submissions made by him, argued that Comparison No. 1 relating to 102 Lower Leeson Street contained in the written submission made by Mr. Malachy Oakes was questionable as the tenant in that case had appeared as the person on the appeal and was not professionally represented. He further argued that even if the Tribunal did accept this comparison on Page 5, the rent per square foot for this premises worked out at £25.50 per square foot and the frontage of 102 Lower Leeson Street was 15ft 9" wide whereas the subject property was 12ft 4" wide.

Mr. Fitzpatrick, when questioned by the Tribunal, indicated that the basement of the subject premises would not be suitable for use as a restaurant. Mr. Fitzpatrick proceeded to state that 103 Lower Leeson Street was vacant and had been vacant for some time. The rent had been fixed at £13,500 per annum and that was too high as the tenant had decided to leave the premises. He said that since the tenant had left, the premises had not been let. This premises had previously been used as a dry-cleaners and the tenant had sub-let to a Gents Hairdressers to help to pay the high rent. The frontage of this premises is 15ft 9" wide which also exceeded the frontage of the subject property of this appeal. Mr. Fitzpatrick stated that proof was there for anyone to see that the rent was too high.

Mr. Fitzpatrick further argued that the subject property was located on the south side of Lower Leeson Street close to St. Stephen's Green. He argued that there was a contra-bus lane which was the only one in the city fronting onto the premises. In addition, he argued that there were double yellow lines on the opposite side of the road which made parking and loading impossible.

He argued that there had been a substantial deterioration in business over the past number of years as a large number of offices in the area had moved to the Financial Services Centre. In addition, the location of the traffic lights did not help.

Mr. Oakes argued that the comparisons contained in Mr. Fitzpatrick's submission, particularly the comparison relating to Hogges Newsagency at 137 Lower Baggot Street, Dublin 2, were indeed relevant. The rateable valuation of 137 Lower Baggot Street was £110 and that worked out at a N.A.V. of £37.70 per square foot. Mr. Oakes argued that Hogges Newagency was a premises of similar location, character and trade to the subject property. Mr Fitzpatrick's other comparison, 7 Lower Baggot Street had a rateable valuation of £85 which worked out at £34.50 per square foot. Another comparison 21, Clare Street, Dublin 2 had a rateable valuation of £58 which was fixed in 1984. Mr Oakes submitted that in the light of the comparisons adduced by the appellant, the figure for N.A.V. of £28 per square foot which he had applied to the subject ground floor shop was very reasonable.

Determination:

The Tribunal accepts in principle the evidence adduced by Mr. Fitzpatrick to the effect that the subject property is located in close proximity to the traffic lights at the end of Lower Leeson Street and that the contra-bus lane fronting onto the property and the double yellow lines on the opposite side of the road make it impossible for traffic to stop at the subject property for the purposes of carrying on trade.

Having regard to all the circumstances of the case and the evidence submitted to the Tribunal, the Tribunal determines that the N.A.V. is £10,000 per annum and accordingly, the rateable valuation of the subject premises should be £63.

