

Appeal No. VA93/1/051

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

Kay Lennox t/a Clothes Peg Boutique

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop at Lot No. 1a/Unit 3 Greenfield Road, Sutton Shopping Centre, D.E.D. Howth, Co. Dublin
Quantum

B E F O R E

Henry Abbott

S.C. Chairman

Padraig Connellan

Solicitor

Paddy Farry

Solicitor

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 4TH DAY OF JUNE, 1993

By Notice of Appeal dated the 1st day of March, 1993 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £70 on the above described hereditament.

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

- "(a) We paid £50 for Tribunal appeal in 1990. Did not get a chance to be heard. Outcome may have had bearing on present rate.
- (b) Present rate £70 unfair due to Bord Pleanala decision to allow Solicitors office to open beside us, effecting our trade badly.
- (c) The fact that previous rates and present rate reflects unfair differential between Boutiques of equal size in the centre."

The Property

The property comprises a unit in Sutton Cross Shopping Centre located at Sutton Cross opposite the Superquinn shopping complex. It is located directly opposite Superquinn Supermarket and almost opposite the entrance and exit to the Superquinn Car Park adjoining the Shopping Centre.

The Shopping Centre has 9 shop units at ground floor level and a restaurant and offices at first floor level. There is a car park for approximately 15 cars. Usual main services are available immediately to the site.

Valuation History

At 1987 Revision the premises was valued as a new unit at £50 rateable valuation. This was reduced from £50 to £45 at 1987 First Appeal. On appeal to the Tribunal the valuation of £45 was affirmed. At 1990 Revision the premises was revised as part of a comprehensive revaluation of all commercial property in the area, and the valuation was increased to £100. At First Appeal this was reduced to £70. It is against this valuation that an appeal lies to the Valuation Tribunal.

Written Submissions

A written submission was received on the 17th May, 1993 from the appellant. In this submission the appellant described the property and its location and the history of the Shopping Centre to date. The appellant, in the written submission, enumerated a number of grounds on which the appeal was based as follows:-

- (1) No police/garda protection when needed.
- (2) Erosion of original planning permission.
- (3) Bad footpaths.
- (4) No road signs to indicate where you are in relation to Sutton Cross.
- (5) Apparent, anomalous approach to valuation of premises in general.
- (6) In the judgment (Appeal No. VA/88/380) dated the 20th December, 1988 a statement was made and I quote "the Sutton Cross Centre houses a range of businesses unique in the immediate area and therefore tends to attract potential customers who otherwise would have to seek such retail services in other shopping areas." It was submitted that this statement was clearly false as an attached list of amenities in areas nearby Sutton clearly showed.

The appellants submission went on to expand in some detail on the above grounds of appeal, including giving details of the amenities available in the Sutton area and in nearby shopping areas such as Howth, Bayside, Baldoyle, Portmarnock, Malahide, which the appellant submitted were more attractive shopping areas within 15 to 20 minutes drive of Sutton. The R.V. was still far too high and totally unacceptable and pointed out that the boutique (Unit No. 7) which was 10 square meters larger was revalued at £55, appellant states that £15 was an unacceptable difference between two boutiques of similar size.

A written submission was received on the 14th May, 1993 from Mr. Jim Gormley B.Agr.Sc, ARICS a District Valuer from the Valuation Office on behalf of the respondent. In this submission Mr. Gormley stated that the subject property was revised as part of a comprehensive revaluation of commercial properties in the area in 1990. A total of 78 commercial properties were revised including all commercial properties at Sutton Cross and Bayside Shopping Centre. The valuations in all cases were fixed at 0.63% of Net Annual Value. He submitted that in particular the rateable valuation of the subject premises was fair when compared to the 7 adjacent retail units all of which were dealt with on the first appeal of 1990 stating that the circumstances in all the cases were similar and the assessments in all cases were made on the same basis. He submitted that the Net Annual Value was arrived at by use of the Zoning method of valuation, that this was a recognised method of valuation on retail property and allowed for the fact that the front of the shop was the most valuable part and the value per unit of area decreased as distance from the front of the shop increased. He stated that the standard practice was to adopt a street frontage by the first 20 feet of depth as Zone A, the frontage of the next 20 feet as Zone B and so on. He submitted the following details:

	<u>Area</u>	<u>Frontage</u>	<u>N.A.V.</u>	<u>Zone A Rate</u>	<u>R.V.</u>
Unit 1	290ft ²	20ft	£ 5 870	£22/ft ²	£37
Unit 2	947ft ²	17ft	£16,000	£22/ft ²	£100
Unit 3*	656ft ²	23ft	£11,000	£22/ft ²	£70
Unit 4	537ft ²	26ft	£10,700	£22/ft ²	£68
Unit 6	225ft ²	10ft	£ 4,400	£22/ft ²	£28
Unit 7	591ft ²	14ft	£ 9,100	£22/ft ²	£55
Unit 8	193ft ²	8ft	£ 3,700	£22/ft ²	£23
Unit 9	226ft ²	9ft	£ 4,200	£22/ft ²	£26

*Appellant

Premises	Net Annual Value	Adjusted N.A.V.	R.V.
Unit 1	Zone A 290ft ² @ £22 = £6380	£5869 X 0.63%	£37
Unit 2	Zone A 346ft ² @ £22 = £7624}	£16032 X 0.63%	£100
	Zone B 432ft ² @ £11 = £4752}		
	Zone C 167ft ² @ £6 = £1002} £17375		
	Improvements = £4000		
Unit 3*	Zone A 460ft ² @ £22}	£11416 X 0.63%	£70
	Zone B 196ft ² @ £11} £12,276		
Unit 4	Zone A 524ft ² @ £22}	£10672 X 0.63%	£68
	Zone B 13ft ² @ £11} £11,671		
Unit 6	Zone A 204ft ² @ £22}	£4380 X 0.63%	£27
	Zone B 21ft ² @ £11} £4,719		
Unit 7	Zone A 282ft ² @ £22}	£9053 X 0.63%	£55
	Zone B 309ft ² @ £11} £9,603		
Unit 8	Zone A 164ft ² @ £22}	£3721 X 0.63%	£23

Unit 9	Zone B 29ft ² @			
	£11} £3,927			
	Zone A 186ft ²	£4224 X 0.63%		£26
	@			
	£22}			
	Zone B 40ft ² @			
	£11}			

*Appellant

Mr. Gormley submitted that the subject premises had a net internal floor area of 656 square feet and a frontage of 23 feet to the Howth Road. He indicated that the premises were purchased in September, 1986 for £72,500 and the appellants spent about £16,000 on fitting out. He submitted that Sutton Cross was one of the most prominent crossroads in Dublins Northside. It was a long established and successful shopping location which had improved considerably in recent years with the rebuilding of the A.I.B. premises and the development of six new shopping units adjacent to Superquinn.

Mr. Gormley proceeded to say that the rateable valuation of £70 was arrived at on the following basis:-

Valuation

(a) **Net Annual Value**

$$\text{Zone A 23' (frontage) X 20' = 460ft}^2 \text{ X £22/ft}^2 \text{ = £10,120}$$

$$\text{Zone B (balance) 196ft}^2 \text{ X £11/ft}^2 \text{ = £ 2,156}$$

£12,276

(b) **Adjusted Net Annual Value**

Adjustment to Net Annual Value to take account of possible impact of rates on letting value. (formula agreed with rating consultants and accepted by Tribunal in **Tom Higgins & Co. Ltd Sutton** VA/92/3/24)

Net Annual Value + (rate in £ X old valuation)

1.202

$$= \frac{\pounds 12,276 + \pounds 32.13 \times \pounds 45}{1.202} = \pounds 11,415$$

(c) **Rateable Valuation**

$$\begin{aligned} \text{Rateable Valuation} &= \text{Adjusted Net Annual Value} \times 0.63\% \\ &= \pounds 11,415 \times 0.63\% = \pounds 71.90 \\ &\text{Say } \pounds 70 \end{aligned}$$

He proceeded to give comparative rental evidence:-

Comparative Rental Evidence**Analysis of Rent**

1. Unit 7

(Personal Touch 35 year lease.

Boutique) 5 year reviews.
from 1.5.1989

Zone A 282ft² @ £27/ft²

Zone B 309ft² @ £13.50/ft²

2. Unit 8

Bookshop 2 year 9 months from
Now "Art fx"

Zone A 164ft² @ £32/ft²

Zone B 29ft² @ £16/ft²

3. Keoghs Newsagency 21 year lease
2a Howth Road 3 year review
(across road) from 1/7/77
Rent reviewed 1/7/1989 to £31,500
Lease sold 1990 for £40,000

Zone A 432ft² @ £37/ft²

Zone B 432ft² @ £18.50/ft²

Zone C 432ft² @ £9.25/ft²

Balance 819ft² @ £4.62/ft²

4. 6 new units across
from appellant and
near Superquinns

Zone A from £38/ft²

to £40/ft²

Appellant

Zone A 460ft² @ £22/ft²

196ft² @ £11/ft²

Oral Hearing

The oral hearing took place on the 24th May, 1993. The appellant Mrs. Kay Lennox appeared in person with her husband, Mr. Jim Lennox. Mr. Jim Gormley B.Agr.Sc, ARICS a District Valuer with 19 years experience in the Valuation Office appeared on behalf of the respondent.

The precis of evidence submitted by the appellant was opened and considered by the Tribunal as was the precis of evidence submitted by Mr. Jim Gormley on behalf of the respondent. The appellant stated that Sutton Cross was not a shopping centre at all as it was not even sign posted. She proceeded to say that people did not stop at Sutton Cross and that it was a roadway to nowhere. The appellant indicated that there were two units available in the immediate area for rent for the past number of months. She stated that she had to keep her premises open six days a week in order to earn a meagre living. She indicated that she had purchased the property 'freehold', and proceeded to indicate that her turnover was now about £200,000 per annum but had reduced by approximately 15 to 20% since the closure of the shoe shop next door to the subject premises. The appellant, submitted that the location of a solicitor's office immediately next door to her premises had caused considerable damage to her retail business, and was not in keeping with the retail business being carried out in the centre. The appellant indicated that she employed one full time employee and one part-time employee. The appellant indicated that she also owned a unit in the Donaghmede Shopping Centre but that she had given a personal guarantee in respect of the lease in Donaghmede and that she could not break the lease. She said that she had a loan on her premises in Sutton and overdraft facilities. The appellant indicated that the interest rate she was paying was double A interest rate and that she received a salary of £5,500 a year only for which she was required to work in the two shops, and do all the paper work necessary for the two shops, and that she had no other choice but to work night and day to keep the businesses operating. The appellant argued there were a number of trees blocking the view of the subject premises from the road way and that the location of the subject premises on the main Howth Road was not as good a location as the boutiques which were situated at the rear of the subject property on Greenfield Road. She said that traffic stopped at the traffic lights on the main Howth Road could clearly see the shop units on Greenfield Road and could not possibly see the subject property.

Mr. Gormley, said that he believed that the shops located on Greenfield Road were not in as good a location as the shops on the main Howth Road including the subject premises. He indicated that Mrs. Lennox was incorrect in her argument that the square footage of No. 7 was in

fact 10m² larger than the subject property. He indicated that the total square footage of Mrs. Lennox's shop was 656 square feet as compared with 595 square feet in the boutique 'Personal Touch' at Unit No. 7 Greenfield Road. The appellant aided by her husband argued that Mr. Gormley was incorrect in his measurements of the front of the subject premises for Zoning purposes as it was at an angle or axis and that the width of the shop was in reality 17 feet 3 inches because of this angle and not 23 feet as submitted by Mr. Gormley. Mr. Gormley argued that No. 7 was paying a rent of £11,500 per annum and was held under a 35 year lease from 1989 subject to 5-year reviews. He also indicated that part of No. 8, consisting of 183 square feet only, had become vacant and was let again at a rent of £500 per month. He proceeded to say that one of the units that was unoccupied was the old Chemist shop as the chemist had moved to a new unit directly opposite the subject property and had applied for planning permission to build six units at the rear of his old premises. He indicated that the Dry Cleaners across the road from the subject property and next door to the old Chemist shop was let at a rent of £21,500 per annum.

The appellant argued that the Butcher's shop owned by Mr. Higgins had become vacant 6 to 8 months previously and that no tenant had been secured for this premises. The appellant argued that Mr. Higgins could not make a living because of the poor trade generated by the Shopping Centre and indicated that a number of occupants of shops in the area were finding it difficult to make ends meet. Mr. Gormley stated that the Net Annual Value was calculated at a rate of £22 per square foot compared with £34 to £36 per square foot being paid by shop units directly across the road from the subject premises. Mr. Jim Lennox indicated that he had measured accurately the subject premises and accepting the basis of Mr. Gormley's calculations he stated that the Rateable Valuation should be £65.

Mr. Gormley submitted then in his opinion based on the comparisons contained in page 7 of his precis, that the present R.V. of £70 was well below comparative levels in the immediate vicinity and was eminently reasonable. The appellant reiterated her objection to the solicitors office located immediately next door to her indicating that this had caused immense damage to her business, and further expressed a fear that rates would be revalued again at a level of £200, as had happened in London where many shops had to close down because they could not afford to pay the rates.

Determination

The Tribunal accepts the appellant's argument in relation to the front of the subject property being at an angle and given all the circumstances the Tribunal is of the opinion that the correct

rateable valuation of the subject premises is £65 and so determines. The Tribunal, responding to the appellants submission that the subject premises had been revised a number of times since 1987, would express the wish that valuations now fixed should remain in place for an appreciable length of time which it would regard as not less than five years. Of course, if any changes take place the situation would obviously be different.