

Appeal No. VA93/1/053

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

Noel Duignan

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop at Map Ref: 13ab.14ab/8, Townland: Malahide, R.D. Dublin-Fingal, D.E.D.:
Malahide East, Co. Dublin
Quantum

B E F O R E

Paul Butler

S.C. (Acting Chairman)

Brian O'Farrell

Valuer

Padraig Connellan

Solicitor

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 8TH DAY OF OCTOBER, 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 £60 on the above described hereditament.

The grounds of appeal were as set out in a note attached to the Notice of Appeal and appended to this judgement at Appendix A.

In summary, Mr. Duignan pointed to the huge variation in increases in R.V. which had been experienced on revision in the town of Malahide - from 28% increase in some cases to 93½% in his own case. He also stated that there was a huge amount of shops for sale in Malahide with 18 in total and 9 shops closed directly attributable to high rent and rates.

The Property:

The property forms part of the St. James Terrace Shopping Centre developed in the mid 1970's. It has frontage to the Main Street. It is next door to an identical unit which is the subject of Appeal No. VA/93/1/072. The property trades as a newsagents and has a net lettable area of 467 square feet. It was purchased for £110,000 in June, 1989.

Valuation History:

The premises was valued as a new unit at £33 rateable valuation in 1976. On First Appeal this was reduced from £33 to £31. At 1990 Revision it was increased from £31 to £60 and no change was made to this valuation at First Appeal.

Written Submissions:

A written submission was received on the 18th June, 1993 from Mr. Noel Duignan. In his submission Mr. Duignan restated the points made in his Notice of Appeal to the effect that the variation in the increase in Malahide was totally unfair and gave 5 examples to support this:-

- 1) Bank of Ireland - R.V. £150-£195 with a 30% increase
- 2) McCabe's Pharmacy - R.V. £38.50-£50 with a 31½% increase
- 3) E.B.S. - R.V. £38-£48 with a 26% increase
- 4) J. Mitton Butcher - R.V. £43-£55 with a 28% increase
- 5) Peter's Supermarket - R.V. £360 unchanged

Peter's Supermarket, he said, was the anchor tenant of the St. James Terrace Shopping Centre. He said that of the 20 units in the centre, 12 received no increases and the other 8 received increases varying from 38 to 93½%.

Mr. Duignan cited the examples of the Post Office and The Uppercut Hair Studio where the increases had been much lower than the subject premises. He said the Post Office had a rent of at least £4,000 and yet had an R.V. of £25, and that The Uppercut Hair Studio had a rental in excess of £5,000 and the present R.V. was £20.50. He restated his point that many shop units in Malahide had closed due to the high rates and rents. Mr. Doyle suggested that a fair and equitable valuation, in this instance, would be an increase of 50% to give an R.V. of £46.50 which, he said, would still put him 20% above the Bank of Ireland.

A written submission was received on the 17th June, 1993 from Mr. Desmond Doyle, B.Comm, a District Valuer with 22 years experience in the Valuation Office, on behalf of the respondent.

In the written submission Mr. Doyle set out the details of the property, its location and its valuation history. Commenting on the grounds of appeal Mr. Doyle stated that the subject property was revised as part of the revaluation of the Sutton Shopping Centre in 1990. The valuations of all the ground floor units were fixed at .63% of N.A.V.. The occupiers of seven of these units appealed to the Commissioner and five of them had been finalised. These five are:-

- 1) Bank of Ireland
- 2) Education Building Society
- 3) Roy McCabe Pharmacy
- 4) John Mitton
- 5) John Mitchell

He said that John Mitchell had been agreed with O'Buachalla & Company, Rateable Valuation Consultants at £70, a reduction of £5. He said that this unit was separated by one unit from the subject premises and also has street frontage.

Mr. Doyle referred to the comparisons adduced by the appellant, i.e., The Post Office, Crilly Shoe Repairs and Uppercut Hair Studio. He said that these basement units generally have had frequent changes of tenants and voids over the years and the rents passing are not a true reflection of N.A.V.. It was decided that the valuations on these units should remain unchanged.

He said that the appellant stated that there was a rent of £5,980 on his premises for 5 years from July, 1989 and that his rateable valuation is too high in relation to this amount. However, Mr. Doyle stated that this was not a market rent, as it was paid by Mr. Duignan's company, The Village Shop Limited to himself.

Mr. Doyle supplied details of valuations finalised in Malahide at 1990 First Appeal and these are appended to this judgement as Appendix B.

Oral Hearing:

The oral hearing took place on the 2nd day of July, 1993 in the Tribunal Offices in Dublin. The appellant Mr. Noel Duignan represented himself and the respondent was represented by Mr. Desmond Doyle, a District Valuer.

At the outset Mr. Duignan said that the Commissioner's comparison of Mitchells was not appropriate in that it was at least 50% more valuable than the subject and would therefore be able

to command a rent much higher than his premises. He also said that rents generally in Malahide were too high with the result that there was a high turnover of tenants in premises in the area. He said that there ought to be a rates impact factor applied in this particular case as the rateable valuations had been considerably increased. Mr. Duignan said that there were a number of premises within the Shopping Centre that had not been increased and he felt that it was unfair that some properties had had a huge increase while others had had little or no increase in their rateable valuations.

Determination:

The Tribunal has considered the question of the high level of rents in the Malahide area in other recent cases and has generally accepted the evidence of parties before it that rents in Malahide at the moment are running at a very high level. The Tribunal therefore considers that Net Annual Valuation calculated by reference to these high rents may be a little inflated and not reflect the true Net Annual Value of these premises. In the instant case the Tribunal considers that this situation applies and that the Net Annual Value attributed to the subject premises is a little too high. In the circumstances the Tribunal is of the opinion that the correct R.V. of the subject premises is £50 and so determines.