

Appeal No. VA93/1/072

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

Valerie Mitton, Bibas Boutique

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop at Map Ref: 13ab.14ab/7, E.D. Malahide East, R.D. Dublin-Fingal, Co. Dublin
Quantum

B E F O R E

Henry Abbott

S.C. Chairman

Veronica Gates

Barrister

Paddy Farry

Solicitor

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 30TH DAY OF JULY, 1993

By Notice of Appeal dated the 2nd 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 set out in a letter attached to the Notice of Appeal and to this judgment as an Appendix. In summary they were:-

- 1) That the increase represented a 94% increase on the previous valuation and was totally inequitable in light of the percentage increases on other shops within this shopping centre.
- 2) Eighteen shops were for sale and nine had closed up directly resulting from high rents and rates.
- 3) That business was very bad as a result of the 10% devaluation and the increase in the VAT rate on clothing. A rateable valuation of around £40 was proposed.

The Property:

The property is part of the St. James Terrace Shopping Centre in Malahide. It has frontage onto the Main Street and is situated adjacent to the entrance to the Mall. The property trades as a boutique and has a net lettable area of 467 square feet. It was purchased for £15,000 in the mid 1970's.

Valuation History:

1976 Revision: Premises was valued as a new unit at £33 R.V.

1976 First Appeal: R.V. reduced from £33.00 to £31.00

1990 Revision: R.V. increased from £31.00 to £60.00

4th February 1993: The Commissioner of Valuation issued his decision, making no change in the Valuation.

2nd March 1993: Appeal against the Commissioner's decision lodged with the Valuation Appeals Tribunal.

Written Submissions:

A written submission was received from the appellant, Ms. Valerie Mitton of Bibas Boutique of Malahide, on the 9th June, 1993. In the written submission Ms. Mitton restated the grounds of appeal as set out in the Notice of Appeal and added that her business had declined by 20% due to the recession and the recent VAT increase from 12½% to 21% in 1993 on clothing.

In the written submission Ms. Mitton added another comparison to that adduced in the grounds of appeal, i.e., The Beach Comber Take Away with a rateable valuation of £32 which had been increased by 59% from £23.

In conclusion Ms. Mitton said that she appealed to have the rate increase brought more in line with other premises, i.e. 50% increase, which would give a rateable valuation of £46.50.

A written submission was received, on behalf of the respondent, from Mr. Desmond Doyle, B.Comm, a District Valuer, with 22 years experience in the Valuation Office, on the 16th June, 1993. In the written submission Mr. Doyle set out the valuation history and the description of the property as set out above.

Commenting on the grounds of appeal Mr. Doyle stated that the subject property had been valued as part of a revaluation of the shopping centre in 1990 and that in all cases a ratio of .63% of Net Annual Value had been used. He said that seven of the properties had been appealed to the Commissioner of Valuation, five had been finalised, one of which was John Mitchell T.V. separated by one unit from the subject premises were a rateable valuation of £70 had been agreed with Donal O'Buachalla & Company Limited, Rating Consultant.

The Net Annual Value, he said, was well supported by reference to rental values in the area and the conversion of .63% was now well established. He said that Net Annual Value was arrived at by the use of zoning method of valuation. The standard practise being to adopt the first 20 feet of depth as Zone A, and the next 20 feet as Zone B and so on. Mr. Doyle set out his calculation of the Rateable Valuation on the subject premises as follows:

Valuation:

Net Annual Value:

Zone A: $15^1.6^{11}$ (frontage) x 20^1 = 310sq.ft. @ £25.00/sq.ft. = £7,750

Zone B: (Balance) 157sq.ft. @ £12.50/sq.ft. = £1,962

£9,712

Say £9,500

Rateable Valuation:

Net Annual Value x 0.63% = £9,500 x .63% = £60.00

Mr. Doyle also set out details of a number of comparisons in Malahide and these are summarised below:

- (1) John Mitchell T.V. - Unit 9 St. James Terrace Shopping Centre
Adjusted N.A.V. £11,066 - R.V. £11,066 @ .63% = £70.00 Agreed
- (2) Roy McCabe Pharmacy - Unit 5 St. James Terrace Shopping Centre
Rent £8,500 - Adjusted N.A.V. £8,000 @ .63% = £50.00 R.V. Agreed
- (3) Educational Building Society - Unit 4 St. James Terrace Shopping Centre
N.A.V. £8,000 - Adjusted N.A.V. £7,680 @ .63% = £48.00 R.V. Agreed
- (4) Bank of Ireland - Unit 6 St. James Terrace Shopping Centre

Adjusted N.A.V. £31,000 @ .63% = £195.00 Agreed

(5) John Mitton - Unit 3,3a St. James Terrace Shopping Centre - N.A.V. £9,000
Adjusted N.A.V. £8,646 @ .63% = £55.00 R.V.

(6) Peter Bennett t/a Chicane Sutercors - Unit 11 New Street Shopping Mall
Rent £9,000 - Adjusted N.A.V. £8,700 @ .63% = £55.00 Agreed

(7) "Tokyo", Unit 9, New Street Shopping Mall,
N.A.V. £7,000 - £6,766 @ .63% = £43.00

(8) "Mitsa Too" (boutique) - Unit 3 New Street Shopping Mall
N.A.V. £8,700 @ .63% = £55.00

(9) "Costa Coffee Boutique" (Coffee Shop),
N.A.V. £8,500 - Adjusted N.A.V. £8,230 @ .63% = £52.00

Oral Hearing:

The oral hearing took place before the Tribunal at its offices in Dublin on the 25th June, 1993. The appellant appeared in person and the Commissioner of Valuation was represented by Mr. Desmond Doyle B.Comm, a District Valuer with 22 years experience in the Valuation Office.

The precis of evidence submitted on behalf of the appellant and on behalf of the Commissioner of Valuation were opened to the Tribunal.

The appellant argued that the present increase from £31 to £60 represented almost a 100% increase and was unacceptable. She stated that her business had declined in the last number of years and that the turnover in her premises had been reduced by 15% in the year 1992 and was down a further 20% in the year 1993. The appellant stated that there were two staff employed in the shop, but that she felt she would have to let one of the staff go as there was not sufficient business. She stated that there were no parking facilities in front of the premises as there were yellow lines in front of the shop. She furthermore indicated that the increase of V.A.T. on clothing to 21% left Ireland with the highest V.A.T. rate in the EEC. The appellant referred the Tribunal to a publication from the Futura magazine of May, 1993 which indicated that 3 shops in the fashion sector had closed in the Malahide area. The appellant furthermore stated that 2 of the shops in the Malahide area were still not relet, and that this was a fair indication that business in

the Malahide area had dropped off substantially. The appellant argued that the comparisons contained in the precis of evidence submitted on behalf of the Commissioner of Valuation, were not relevant and in particular comparison No. 1 relating to John Mitchell which referred to a premises which was involved in a different trade and was located at St. James's Terrace Shopping Centre which was a completely different proposition to the premises occupied by the appellant. The appellant contended that the location of the subject premises was effectively removed from the main area of business which was in the New Street area and the St. James's Terrace Shopping Centre itself. The appellant indicated that the shops in the New Street area would benefit from the new Marina being built, and the development of new apartments at the marina site. The appellant and Mr. Doyle on behalf of the Commissioner referred the Tribunal to a number of comparisons of premises in the immediate vicinity. Mr. Doyle advised the Tribunal that the N.A.V. was based on rents in the locality and was comparable to rents being paid in other premises immediately adjacent to the subject premises. The Tribunal were satisfied that because of the compact layout of the village no location could be said to be too inferior. Mr. Doyle indicated to the Tribunal that he was prepared to allow a rates impact factor of £5.00, however, the appellant was not prepared to accept this offer.

Determination:

The Tribunal, having considered the submissions made on behalf of the appellant and on behalf of the Commissioner of Valuation, is satisfied that having regard to the facts of this particular case the N.A.V. suggested on behalf of the Commissioner of Valuation is excessive, in the light of the general difficulties being experienced by occupiers of premises in the Malahide area in relation to rents in general, and the decline in turnover in the instant case, and, therefore, having made adjustments in respect of the rates impact factor, determines that the Rateable Valuation should be £50.