

Appeal No. VA93/2/071

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

Anthony Carey

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop and Post Office at Map Ref: 19d, Townland of Lucan and Pettycannon, Ward of
Lucan - Heights, R.D. Dublin - Belgard, Co. Dublin
Quantum

B E F O R E
Henry Abbott

S.C. Chairman

Paul Butler

S.C.

Joe Carey

P.C. M.I.A.V.I.

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

By Notice of Appeal dated the 27th day of May, 1993 the appellant appealed against the determination of the Commissioner of Valuation in fixing a Rateable Valuation of £80.00 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that "in our opinion the Net Annual Value adopted by the appeal valuer is excessive and inequitable having regard to the 1986 & 1988 Valuation Acts. This property could not sustain the rental level which is being attributed to it".

The Property

The premises comprise a ground floor shop and first floor, currently trading as Clery's Newsagents in Main Street, Lucan. It is situated on the southern side of Main Street close to its junction with the Lucan bridge. The buildings are of a traditional construction with mixed masonry and random rubble walls, smooth render to the front elevation and solid concrete floors throughout. The area of the ground floor shop/post office is 656 square feet while the first floor covers an area of 624 square feet. All main services are connected to the property.

Valuation History

Prior to the valuation of 1991 the subject property was valued at £55.00 and was described as 'Post Office (ground floor) and Shop (first floor)'. In 1991 a request was received from Dublin County Council, Rates Section to 'Revise and update' the valuation. The result of the 1991 Revision was to increase the Rateable Valuation to £90.00 and to amend the description to 'Shop and Post Office'. This new valuation was appealed to the Commissioner of Valuation and resulted in a reduction in the valuation to £80.00 and no change in the description. It is against this Rateable Valuation of £80.00 that the appeal now lies with the Tribunal.

Written Submissions

A written submission was received on the 14th September, 1993 from Mr. Peter G. O'Flynn of Messrs. Druker Fanning & Partners representing the appellant. In his submission, Mr. O'Flynn said that a fair rateable valuation for the subject premises in accordance with Section 5 of the Valuation Act, 1986 is £65.00 made up as follows:-

"Ground Floor: Zone A 322 sq.ft. at IR£18 per sq.ft.

Ground Floor: Zone B 322 sq.ft. at IR£9 per sq.ft.

First Floor Stores: 624 sq.ft. at IR£2.50 per sq.ft.

Total Net Annual Value IR£10,362

In accepting the general ratio applied by the Commissioner of Valuation i.e. .63% my calculation of rateable valuation is $IR£10,362 \times .63\% = 65.28$ say R.V. IR£65."

A written submission was also received on the 6th September, 1993 from Mr. Colman Forkin, a Chartered Valuation Surveyor with 12 years experience in the Valuation Office on behalf of the respondent. In his submission, Mr. Forkin commenting on the grounds of appeal of the appellant, stated that an estimate of N.A.V. of £12,500 was arrived at by valuing the Zone A area

at £18.00 per square foot and Zone B at £9.00 per square foot. The first floor retail area was valued at £6.00 per square foot and he said that he had used the same rates in his comparisons, all of which were the subject of a 1991 First Appeal and all were represented by Druker Fanning & Partners. Mr. Forkin also gave the following breakdown of his rateable valuation of £80.00:-

Shop: Zone A:	323 sq.ft.	@	£18.00 p.s.f.	=	£ 5,814.00
(Gr.Fl) Zone B:	333 sq.ft.	@	£ 9.00 p.s.f.	=	£ 2,997.00
First Floor	624 sq.ft.	@	£ 6.00 p.s.f.	=	<u>£ 3,744.00</u>
					£12,555.00

Est. N.A.V.: £12,555.00 X 0.63% = £79.00
Say = £80.00

The written submissions are appended to this judgment as Appendix A and B.

Oral Hearing

The oral hearing took place in Dublin on the 15th day of September, 1993. Mr. Peter G. O'Flynn appeared on behalf of the appellant and Mr. Colman Forkin appeared on behalf of the respondent. It emerged very early on in the course of the hearing that the only issue between the parties was the rental value of the first floor premises. Mr. O'Flynn said that this portion of the premises cannot be used as a retail area. He said that in the whole of Lucan there is not one first floor with retail trading. He went on to refer to his written submission and the comparison therein cited. He said that there was no separate access to the first floor and it would not, therefore, be suitable for professionals such as accountants or solicitors.

Mr. Forkin said that at the time of his inspection the first floor of the subject premises was used as a shop; that there were customers therein when he inspected and that he had to move around them. He said that the appellant's comparison was not valid as the stairs leading to the first floor was much too narrow.

Determination

The Tribunal is satisfied that there is no proper comparative evidence of first floor retail areas in the Town of Lucan. Having regard to the fact that, for better or for worse, the area in question was being used for some form of retail trade, a value higher than the £2.50 per square foot suggested by the appellant must be attributed thereto. In these circumstances the Tribunal feels

that a rental value of £4.00 per square foot would be fair and reasonable in the circumstances. Rateable Valuation is, therefore, determined at £71.00.