

Appeal No. VA93/3/028

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

Brendan & Sheila Doherty

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop at Map Reference: 12F/Unit 5, Townland: Coolmine, Mountview Shopping Centre,
D.E.D.: Blanchardstown-Coolmine, Dublin-Fingal, Co. Dublin
Quantum

B E F O R E

Paul Butler

S.C. (Acting Chairman)

Brian O'Farrell

Valuer

Paddy Farry

Solicitor

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 28TH DAY OF MARCH, 1994

By Notice of Appeal dated the 10th day of August, 1993 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £95 on the above described hereditament.

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

- "(1) The valuation is excessive and inequitable.
- (2) The valuation is bad in law."

The Property:

The subject property, a butchers shop, is situated in Mountview Shopping Centre located on Mountview Road, at the southern edge of Fortlawn Estate approximately 1½ miles from Blanchardstown Village.

The shopping centre is an 'L' shaped single storey block construction dating from the early 1980's. It is of concrete frame construction with concrete block walls, concrete floors and concrete roof. The floor area of the subject property is 930 square feet.

Tenure:

The property is held under a 33 year commercial lease from 1st November, 1982. The first review to be after 3 years and 5 yearly from then on.

Valuation History:

The property was first valued in 1983 at £50. It was revised in 1990 and the rateable valuation was increased to £80. This was subsequently appealed and the Commissioner reduced the valuation to £50 at First Appeal stage. It was revised again in 1991 and the rateable valuation of £80 was restored. This again was appealed and the Commissioner of Valuation increased the valuation to £95 at First Appeal stage. It is against this valuation that an appeal lies to the Valuation Tribunal.

Written Submissions:

A written submission, covering this property and seven other units in Mountview Shopping Centre, was received on the 24th January, 1994 from Mr. Alan McMillan, an Associate of the Society of Chartered Surveyors in the Republic of Ireland and a Director of Donal O'Buachalla & Company Limited.

In his submission Mr. McMillan described the property and its location as referred to above, and he also gave details of the valuation history of the property and reiterated the grounds of appeal.

Mr. McMillan stated that the rental values in 1985 which were determined at arbitration as being in excess of market value.

He said that not only were the rentals too high compared to other somewhat similar centres, but "internally" show unevenness and inconsistency.

He set out a table of the actual 1985 and 1990 rents on a per square foot basis and showed devaluation of the existing N.A.V.'s against which these appeals lie as follows:-

<u>Unit</u>	<u>Appellant</u>	<u>Floor Area</u> <u>Sq.ft.</u>	<u>Rent (psf)</u>		<u>N.A.V.</u>
			<u>1985</u>	<u>1990</u>	
1	Jack Fay	746	£14.75	£16.22	£17.02
2	Sarah Chan	720	£20.83	£22.92	£17.63
2A	Gerry Landers	1,650	£ 9.70	£10.67	£14.43
3	Colm Stanley	942	£13.69	£15.06	£16.01
4	Gerard Rogers	930	£15.05	£16.56	£16.21
5	Brendan & Sheila Doherty	930	£13.87	£15.26	£16.21
6	Growneyville Ltd.	930	£13.87	£15.26	£16.21
9	Corcorans Management Ltd.	490	£20.40	£21.43	£21.05

Mr. McMillan also gave details of four other local shopping centres competing with the subject centre, namely:-

Blakestown

Hartstown

Roselawn

Blanchardstown Village.

Eleven comparable properties were referred to by Mr. McMillan in his submission and details of these are attached to this judgment at Appendix A.

In conclusion Mr. McMillan stated that he accepted that some adjustment of the old valuation was required and **his estimate of rateable valuation for the subject hereditament was £47.**

A written submission was also received on the 19 January, 1994 from Mr. Christopher Hicks, an Appeal Valuer in the Valuation Office, acting on behalf of the respondent.

Mr. Hicks described the property and location and he set out details of the valuation history in his submission. Mr. Hicks offered two comparative shopping centres with his submission,

Drogheda Mall, Finglas and Dundrum Shopping Centre details of which are attached to this judgment as Appendix B.

Oral Hearing:

The oral hearing took place on the 28th January, 1994. Mr. Alan McMillan represented the appellant. Mr. Sam Jones of Gowneyville Limited appeared on his own behalf and as a spokesman for the other appellants in this shopping centre. Mr. Christopher Hicks represented the respondent.

The precis of evidence submitted by Mr. McMillan and Mr. Hicks were opened and considered by the Tribunal. Mr. McMillan argued that each of the subject premises with the exception of Unit No: 9, (Corcorans Management) was valued in 1983. He stated that Mountview Shopping Centre was located on Mountview Road at the southern edge of Fortlawn Estate. He indicated that this Shopping Centre is located 3/4 of a mile north of Coolmine Road and 1.5 miles from Blanchardstown Village.

Mr. McMillan argued that to compare the Mountview Shopping Centre with Drogheda Mall or Dundrum Shopping Centre would be to make a serious error. He indicated that this was a poor Shopping Centre in a low income neighbourhood. He indicated that there was a considerable problem with vandalism and security generally, and Mr. Jones indicated that he was in fact paying what would be considered protection money as were the other tenants in the Shopping Centre.

Mr. McMillan indicated that Blakestown Shopping Centre was comparable to the subject Shopping Centre and was located approximately 1/2 mile away from the subject centre. He indicated that Blakestown was corralled by an 8 foot fence, and that this centre was in direct competition with Mountview. The Shopping Centres at Hartstown, Roselawn, Blanchardstown Village, Palmerstown, Orwell Shopping Centre, Greenpark Shopping Centre and Dutch Village Shopping Centre, Clondalkin were all superior locations to the subject property.

Mr. Jones gave evidence that in fact his turnover had decreased to such an extent that he was not capable of making any profit whatsoever from the premises. He indicated that he owned another premises in the Roselawn Shopping Centre which had a far greater turnover and that there was no comparison between the two shops.

Mr. McMillan argued that while the rents quoted by Mr. Hicks in his precis were the rents passing, that in fact these rents were excessive, and that the Tribunal should consider that the tenant did not avail of the Arbitration Procedure to possibly achieve lesser rents because of the expenses incidental thereto.

Mr. Hicks relied on the passing rents and further argued that the fact that premiums were being paid for the leases was a fair indication that:-

- a) the tenants were happy with the passing rent and
- b) there was a certain element of hidden rent in the premiums being paid for the premises.

Mr. Hicks furthermore argued that in the case of *Appeal No: VA93/3/024 - Sarah Chan*, that the rent of £21.88 was in his view excessive and that he was regarding Units 3, 4, 5 and 6 as being similar to one another.

Determination:

The Tribunal is satisfied that the passing rent is the best evidence of net annual value. The Tribunal is further satisfied that notwithstanding the evidence of passing rent due regard must be had to other passing rents and valuations in the area.

Having regard to all the circumstances, and indeed the special circumstances surrounding the subject property, the Tribunal is satisfied that the valuation of the unit should be £76 and so determines.