

Appeal No. VA93/3/037

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

Liam Clegg

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop at Map Ref: 3/Unit 6, 21 Terenure Place, Ward: Terenure, County Borough of Dublin
Quantum

B E F O R E
Henry Abbott

S.C. Chairman

Veronica Gates

Barrister

Brian O'Farrell

Valuer

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 18TH DAY OF APRIL, 1994

By Notice of Appeal dated the 10th August, 1993 the appellant appealed against the determination of the Commissioner of Valuation in fixing a Rateable Valuation of £30.00 on the above described hereditament.

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

"the rent we are paying for this small shop is too much for the level of trade the shop is doing. We have been losing money in this location for 1½ years. We have been trying to let the shop to someone else for 12 months, no one will take it. There is not enough passing trade and no parking in the vicinity."

The Property

The property is centrally situated in a small terrace of buildings on the north side of Terenure Place the link road between Terenure village, Templeogue Road and Terenure Road West.

The property comprises a small shop unit of about 215 square feet situated at street level with frontage of 8 feet and depth of about 27 feet to include a small toilet and store area at rear.

The property is situated in a terrace of 7 shops all of fairly similar size, the entire comprising the ground floor of a new two storey development, with four apartment/townhouses at first floor level. The shop is used as a shoe repair outlet with a standard type shop front window and entrance door.

Tenure

The property is held under a lease for a period of 35 years from February, 1992 with 5 year rent reviews, the tenant being responsible for normal repairs, rates and insurance. The rent is £7,200 per annum.

Valuation History

The property was listed by Dublin Corporation for 1992 revision with a request to value new shop units. The property was inspected and a valuation of £30.00 placed thereon. No change was made to this valuation at First Appeal. It is against this valuation that the appeal now lies to the Tribunal.

Written Submissions

A written submission was received from Mr. Denis Maher, District Valuer with 19 years experience in the Valuation Office on behalf of the Respondent. Mr. Maher described the property and its valuation history as set out above. He said that the Net Annual Value on the subject was established by way of rental levels for retail outlets in the general vicinity of Terenure and having regard to the existing rent payable in respect of the property. He said that the rental levels for the adjoining units of this development established under leases commencing the period January to July, 1992 range from £18.60 to £21.00 per square foot. He said that the passing rent of this unit devalued at £33.00 per square foot for 1992. He set out his calculation of the Rateable Valuation as follows:-

"Shop:	215 sq.ft.	@	£25.00/ft ²	=	£5,375
			Est. N.A.V.	=	£5,375
			R.V. @ 0.63%	=	£33.86

Propose stet O.V. at £30.00

OR

Rent Reserved	=	£7,200
Adjusted to November, 1988 levels - less 25%	=	£5,400
Est. N.A.V.	=	£5,400
R.V. @ 0.63%	=	£34.02
SAY	=	£30.00
Stet O.V."		

Mr. Maher set out details of six comparisons in the Terenure area as follows:-

- (1) Lot 3/Unit 5.
1992/4 First Appeal. R.V. £30.00.
- (2) Lot 8, Terenure Road West.
1991 and 1992 Revisions. R.V. £45.00.
- (3) Lot 12, Terenure Road West.
1992 Revision. R.V. £50.00.
- (4) Lot 14, Terenure Road West.
1992/4 First Appeal. R.V. £50.00.
- (5) 86, Terenure Road North.
1991 Revision. R.V. £35.00.
- (6) 134, 136a Terenure Road North.
1991/4 First Appeal. R.V. £40.00

The appellant, Mr. Clegg, did not present a written submission to the Tribunal.

Oral Hearing

The oral hearing took place in Dublin on the 4th day of February, 1994. Mr. Liam Clegg, the appellant, appeared personally and he gave evidence. He said that the subject was up for letting having been an unwise investment from his point of view as an intended shoe repair store.

Mr. Clegg gave evidence that he had business in other premises which was prospering but that the same level of business was not possible in the subject. He was not satisfied that an assignee could be found for the premises at the current rent.

Mr. Maher gave evidence along the lines of his written submission.

Findings

The Tribunal is bound in most cases by a passing rent and Mr. Maher's calculation certainly is consistent with the passing rent and with the general objective of maintaining the tone of the list having regard to the particular passing rent in relation to the subject premises. However, Mr. Clegg gave evidence that the business failed in the subject.

The Tribunal is impressed that Mr. Clegg is trading successfully elsewhere and therefore considers that Mr. Clegg has made out a strong case that the failure was not due to any lack of entrepreneurial abilities on his part but rather due to the poor location of the subject.

The Tribunal is therefore constrained to find that the rent agreed by Mr. Clegg for the premises was probably somewhat too high and finds in all the circumstances of the case that the valuation should be £27 and so determines.