

Appeal No. VA93/4/011

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

E.S.B.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop at Map Ref: 17abc.18abc/Unit 8, Townland: Naas West - Main Street, E.D. Naas No. 10, Urban District of Naas, Co. Kildare
Quantum - New shopping centre unit

B E F O R E

Paul Butler

S.C. (Acting Chairman)

Mary Devins

Solicitor

Veronica Gates

Barrister

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 4TH DAY OF MAY, 1994

By Notice of Appeal dated the 28th day of October, 1993 the appellant appealed against the determination of the Commissioner of Valuation is fixing a Rateable Valuation of £95.00 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that "the valuation is excessive and inequitable and bad in law".

The Property

The property is a lock-up shop in a new shopping centre located on Main Street, Naas - in the centre of town. The centre is two storey overlooking a central mall with roof level car park at rear accessible via stairs. There is a public car park close by and no on street parking.

The shop has an area of c.1230ft² and is larger than other units in the centre (The average unit being c. 500ft²). It is in good condition being newly built.

Valuation History

The centre was first valued on 1992 revision. The R.V. was fixed at £110.00 on revision and on First Appeal was reduced to £95.00.

Written Submissions

Mr. Des Killen of Messrs. Donal O'Buachalla & Company Limited presented a written submission dated the 23rd February, 1994 on behalf of the appellant. In his said submission, Mr. Killen, gave the valuation history of the premises, described the same and said that the same was held under a 10 year lease from the 1st November, 1991 at a rent of £18,000. He said that the said lease was an open market transaction referring to both ground and first floors and being apportioned by the E.S.B. as £15,000 attributable to the ground floor (the subject premises) and £3,000 attributable to the first floor. Mr. Killen used as comparisons the other premises in the shopping centre. The said comparisons showed that the Commissioner of Valuation had taken the passing rent in each case and reduced the same by in or around 15% giving the respective Net Annual Values. However, in the case of the subject premises, the apportioned passing rent amounted to £15,000 and the respondent's Net Annual Value was £19,000.

Mr. Malachy Oakes, District Valuer with 20 years experience in the Valuation Office presented a written submission dated the 28th February, 1994 on behalf of the respondent. In his said submission, Mr. Oakes commented on the grounds of appeal as follows:-

"The Rateable Valuation here was fixed with reference to the Letting Value of the property and other similar properties in Naas".

Mr. Oakes found that the letting value of the subject premises on the basis of £15.50 per square foot amounted to £19,065 and arrived at a Rateable Valuation of £95.00.

Oral Hearing

The oral hearing took place in Dublin on the 14th day of March, 1994. Mr. Des Killen appeared on behalf of the appellant and Mr. Malachy Oakes appeared on behalf of the respondent.

Mr. Killen referred to his written submission. He said that the best evidence available was the passing rent in this case which when adjusted to the ground floor which is the subject premises amounted to £15,000. He said that the best comparisons available were contained in the same Shopping Centre. Under cross examination he said that the lease was a 10 year lease and accepted that the other leases were 35 year leases.

Mr. Oakes in evidence referred to his written submission. He said that the other units in the Shopping Centre had all more or less the same area and he felt that the E.S.B. had obtained its lease on favourable terms. Mr. Oakes agreed that he had reduced the other rents by about 15% to arrive at the Net Annual Values and he accepted that £15,000 was the appropriate passing rent for the subject premises.

Determination

There is an agreed passing rent in this case and no evidence has been adduced to the effect that the same is below the market level. The Tribunal is satisfied that this passing rent should be reduced as were the passing rents of the other units by 15% to arrive at the Net Annual Value of the premises. Accordingly, the Tribunal finds that the Net Annual Value of the subject premises is £12,750 which would give a Rateable Valuation of £63.75. The Tribunal therefore determines Rateable Valuation at £64.00.