

Appeal No. VA93/4/017

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

Terence Connolly t/a T & L Paints Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop at Map Reference: 9.11/5, Main Street, Ward: Carrickmacross Urban,
U.D.: Carrickmacross, Co. Monaghan
Quantum

B E F O R E
Henry Abbott

S.C. Chairman

Mary Devins

Solicitor

Paul Butler

S.C.

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 11TH 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 in fixing a rateable valuation of £42 on the above described hereditament.

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

"the valuation fixed is excessive, inequitable and bad in law."

The Property:

The property comprises a paint and wallpaper shop located in a development known as the O'Duffy Centre, which contains seven shop units and six first floor office suites and a large gravel surface carpark at the rear with exit to Cross Street which is open to the public without charge until 9pm. There is also on-street parking to the front.

The main building is a two-storey structure with slate roof and a single storey extension with steel roof at the rear.

Valuation History:

The site was formerly the site of the Weymouth Grammar School with a land area of 1 - 0 - 20 until approximately 1960 and was subsequently used as stores by Lough Egish Co-op until 1974 when Duffy Brothers purchased the property and converted the buildings into apartments and a shop.

In the early 1980's the old building was demolished and approximately 5 feet of topsoil was removed from the site to form the present car parking area.

The front shop units and overhead office units were first revised in 1992 and the rateable valuations were fixed in February 1992. All occupiers appealed against the valuations and in the case of this appeal the valuation was reduced from £55 to £42. In October, 1993 Mr. Lennon appealed the rateable valuation to the Tribunal.

Written Submissions:

A written submission was received on the 4th May, 1994 from Mr. Alan McMillan, an Associate of the Society of Chartered Surveyors and a Director of Donal O'Buachalla & Company Limited, on behalf of the appellant.

In his written submission, Mr. McMillan set out the background to the appeal and described the property in terms of the location, square footage and tenure.

Mr. McMillan said that the considerations that he would take into account in valuing the property were location, the premises themselves, the rent and leases applying.

In relation to location he said that the location was a secondary one in Carrickmacross and that the section north of O'Neill Street was superior.

He said that there was a lack of prominence and visibility in the subject location. He said that the subject premises itself, though modern and purpose built had an overall depth of 60 feet which was high relative to the frontage of 13 feet.

In relation to the rent payable, he said that the rent of £10,400 per annum or £200 per week must be seen as high and certainly produced rateable valuations which were well above par in comparative terms.

Mr. McMillan contended that the assessments of rateable valuation at £42 did not reflect the traditional level of valuation nor even the more recent and higher levels implemented at revision/appeals.

Mr. McMillan offered 5 comparisons in Carrickmacross as follows:

- 1) **Howells Jewellers:**
 Ref: 24b/26 Main Street
 R.V. £34 at 1990 Appeal

- 2) **Emmett McDermott:**
 Ref: 24a Main Street
 R.V. £23 at 1990 First Appeal

- 3) **D & M Stores (now t/a Xtra Vision):**
 Ref: 10.12/1-3 Main Street
 R.V. £57 at 1986 Revision

- 4) **Michael Daly (now t/a Crosbie's Butchers):**
 Ref: 10.12/14 Main Street
 R.V. £54 at 1980 First Appeal

- 5) **FBD Insurance:**
 Ref: Pt 19 Main Street
 R.V. £15 at 1989/1 Revision

Based on the foregoing Mr. McMillan said that, in his opinion, a fair rateable valuation on the subject premises taking the floor area into account was as follows:-

Floor Area - 775 square feet @ £9.00 p.s.f. (£135 p.w.) = N.A.V. say £7,000
 R.V. @ 0.5% = £35

He said that the relief sought was a reduction to R.V. £35.

A written submission was received on the 28th April, 1994 from Mr. Noel Lyons, B.Comm., a District Valuer with 20 years experience in the Valuation Office, on behalf of the respondent.

In the written submission Mr. Lyons described the property, gave its valuation history and tenure. He said that the property was maintained in excellent condition. He said that the shop units for their age were probably the best in Carrickmacross in terms of construction and finish. He said that the rents on the shop were also the highest in Carrickmacross.

Mr. Lyons said that although 2 of the tenants left within 2 years the units had not been vacant for long. He said that, in his opinion, commercial activity was concentrating on the Ardee end of town where the subject premises was located and that there was a constant stream of large trucks travelling through the town to and from the north of Ireland.

Mr. Lyons set out his calculation of the rateable valuation as follows:-

(a) Estimate of Nett Annual Value

(i) Frontage of premises - 13 feet

Nett Area - 785 feet²

Lease rent at October '90 was £200 per week or £10,400 per annum

Rent overall per foot² = £13.25

Analysis of Passing Rent:

Zone A 260 feet² @ £22.65 per ft² = £ 5,889

Zone B 260 feet² @ £11.35 per ft² = £ 2,951

Zone C 260 feet² @ £ 5.65 per ft² = £ 1,469

Balance 5 feet² @ £ 5.00 per ft² = £ 25

	£10,400
Say	£10,400

(ii) To arrive at a Nett Annual Value allow 20% reduction on rent. Estimate of Nett Annual Value:

Estimate of N.A.V. devalues at £8,320 or £160 per week

Estimate of Nett Annual Value devalues at £10.60 per foot²

Analysis of Nett Annual Value:

Zone A	260 feet ²	@ £18.00 per ft ²	= £ 4,680
Zone B	260 feet ²	@ £ 9.00 per ft ²	= £ 2,340
Zone C	260 feet ²	@ £ 4.50 per ft ²	= £ 1,170
Balance	5 feet ²	@ £ 4.00 per ft ²	= <u>£ 20</u>
			£ 8,210

(b) Rateable Valuation

£8,210 x 0.5% = £41.05

Say £42.00

Mr. Lyons offered the 3 comparisons as follows:-

1) Emmett McDermott

24a Main Street

1990 First Appeal

Rateable Value - £23

2) Howell Jewellers

24b. 26 Main Street

1990 (VA92/2/68)

Rateable Value £34 (Agreed Prior to Hearing)

3) Pat McDermott

23a Main Street

1992 Revision

Rateable Value £45

Oral Hearing:

The oral hearing took place in Monaghan on the 11th May, 1994. Mr. Brendan Larney of Brendan Larney & Company, Solicitors, appeared on behalf of the appellant with Mr. Alan McMillan, of Donal O'Buachalla & Company Limited, who gave evidence. Mr. Lyons appeared on behalf of the respondent.

At the oral hearing it was agreed that this appeal would be heard together with Appeal No: VA93/4/018 - Sean Lennon, Lennon's Delicatessen, as both premises were virtually identical.

Mr. McMillan referred to his written submission. He stressed what he believed to be the inferior location of the premises in comparison with the comparisons offered, and said that the shops were set back approximately 60 feet from the street edge and were coffin shaped.

Passing rent in each case amounted to £10,400 per annum. That rent was established by leases dated 24th October, 1990. Mr. McMillan submitted that the rent was too high.

Mr. Lyons said that he had allowed a reduction of 20% on the passing rent to reach Net Annual Value, but that this reduction was to bring the rent back to 1988 rather than accepting that the agreed rent was too high.

he appellants, in each case, gave evidence to the effect that when they took their premises they did so in the belief that rateable valuation would be lower and they found the same excessive, particularly having regard to other premises.

Determination:

The Tribunal is satisfied that both sides have adopted fair and reasonable methods of arriving at an appropriate rateable valuation. However, in default of agreement between the parties it is for the Tribunal to impose its view of the correct rateable valuation.

The Tribunal is satisfied, having regard to the evidence given, that the adjusted passing rent in this case is somewhat too high. The Tribunal therefore reduces the Commissioner's figure for Net Annual Value of £8,320 to £7,500, in respect of the premises, yielding a rateable valuation of £37.50, say £38.

