

Appeal No. VA94/2/036

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

**Diarmuid Brereton t/a Lorcan Brereton Limited**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Shop at Map Ref: 29 South Anne Street, Ward: Mansion House, County Borough of Dublin

Quantum - Passing rent, comparisons

**B E F O R E**

**Paul Butler**

**S.C. (Acting Chairman)**

**Brian O'Farrell**

**Valuer**

**Brid Mimmagh**

**Solicitor**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 14TH DAY OF FEBRUARY, 1995**

By Notice of Appeal dated the 29th day of July, 1994 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £75 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 having regard to the provisions of the Valuation Acts and in particular, the Net Annual Value assessed thereunder. The appeal valuer totally disregarded the passing rent and the physical limitations of the premises compared with adjoining or nearby premises."

**The Property:**

The property is a lock-up shop with basement situated in South Anne Street close to the Grafton Street end. It comprises a retail jewellery shop with an area of c.201 square feet with frontage of 8 foot 9 inches.

**Tenure:**

The property is held under a 35 year lease with 5 yearly rent reviews from 15th February, 1990 at £8,100 per annum as fixed on the 20th July, 1990. This lease was a renewal of a 21 year lease from 1969.

**Valuation History:**

The property was valued in July, 1993 at £80.00. An appeal was lodged to the Commissioner of Valuation and the valuation was reduced to £75.00. It is against this determination of £75.00 that an appeal lies to the Tribunal.

**Written Submissions:**

A written submission was received on the 21st November, 1994 from Mr. Michael D. Coyle FRICS FSCS MIAVI DipArblaw ACIARB, Valuation Partner, Palmer McCormack & Partners on behalf of the appellant. In his written submission, Mr. Coyle described the premises, its location, services, tenure and valuation history. He said that he believed the valuation was too high based on a number of factors, namely the physical limitations of the premises with a restricted street profile, and narrow shaped frontage. The fact that the rateable valuation disregarded the best evidence of passing rent, and that generally the revising and appeal valuers had adopted a valuation approach to the entire street which is generally too high and contains a number of serious anomalies. Based on the evidence adduced in his written submission, Mr. Coyle assessed the rateable valuation on the subject premises as follows:-

|              |           |   |        |               |
|--------------|-----------|---|--------|---------------|
| "Shop Zone A | 170sq.ft. | @ | £41.50 | £7,055        |
| Shop Zone B  | 31sq.ft.  | @ | £20.75 | £ 643         |
| Basement     | 176sq.ft. | @ | £ 6.00 | <u>£1,056</u> |
|              |           |   |        | £8,754        |

The rateable valuation should therefore be;

$$\text{Net Annual Value } £8,750 \times 0.63\% = £55.12, \text{ say } £55.00''$$

Mr. Coyle supplied the Tribunal with a number of comparisons in South Anne Street and these are summarised below:-

- (1) **No. 29, South Anne Street.**

February, 1990 Rent £9,750. Zone A has been calculated by reference to the gross frontage of 8ft 6ins to accord with Valuation Office practice.

**Analysis:-**

|          |          |           |                 |
|----------|----------|-----------|-----------------|
| Zone A   | 170 sqft | at £45.00 | £7,650.00       |
| Zone B   | 31 sqft  | at £22.50 | <u>697.50</u>   |
|          |          |           | £8,347.50       |
| Basement | 176 sqft | at £ 8.00 | <u>1,408.00</u> |
|          |          |           | £9,755.50       |

(Analysis of subject based on rent passing)

(2) **No. 17A, South Anne Street.**

Revision Valuation £70.00. Valuation Tribunal Award £55.00.

**Analysis:-**

|                       |          |          |            |
|-----------------------|----------|----------|------------|
| Ground Floor Shop     | 227 sqft | @ £35.00 | £7,945     |
| Basement Store (poor) | 206 sqft | @ £ 4.00 | <u>824</u> |
|                       |          |          | £8,769     |

(3) **No. 17 South Anne Street.**

**Occupier:** Keith Cusack.

**Rateable Valuation:** £90.00 (fixed 1971) revised 1993, no change.

**NAV:** £14,300 per annum.

**Lease:** 35 x 5 from the 1st November, 1982 at £10,435 per annum (1987).

(4) **No. 21 South Anne Street.**

Previous occupier Memoirs Limited, now vacant. R.V. £110.00 (fixed 1981), revised 1993, unaltered.

**NAV:** £17,500 per annum.

**Lease:** 2 years and 9 month from the 1st March, 1988 at £12,500 per annum exclusive.

Second lease for 2 years 9 month from the 1st June, 1991 at £12,500 per annum exclusive.

**Analysis:-**

|                        |          |             |         |
|------------------------|----------|-------------|---------|
| Ground Floor Shop      | 376 sqft | @ £47.00    | £17,672 |
|                        |          | (say)       | £17,500 |
| True analysis of rent: | 376 sqft | @ £33.24psf | £12,500 |
| Proper R.V.            |          |             | £79.00  |

(5) **No. 1, South Anne Street.**

**Occupier:** Monica John

**Rateable Valuation:** August 1993 revision £225, reduced on appeal to £200.  
Currently under appeal to the Tribunal.

**NAV:** £31,700

**Lease:** 35 x 5 from the 16th September, 1985 at £25,000.

**Rent Review:** 6th year (and then 5 yearly)  
16th September, 1991 £31,000.

(6) **No. 2 South Anne Street.**

**Occupier:** Boutique Homme.

**Rateable Valuation:** 1993 £280, appealed and reduced to £235.00

**NAV:** £37,300

**Lease:** 35 x 5 from the 27th November, 1987 at £35,000. Reviewed 1992 to £40,500.

(7) **No. 3 South Anne Street.**

**Occupier:** Otokio, now Subway.

**Rateable Valuation:** 1992 £220.00. Reduced on appeal to £185.00

**NAV:** £29,300.

**Lease:** Original Lease 35 year from the 1st July, 1985 at £23,000. Re-let 1st July 1990 at £30,000.

(8) **No. 5, South Anne Street.**

**Occupier:** I.K.V.I., now Cafe Java.

**Rateable Valuation:** March 1993, £235.00. Reduced on appeal to £225.00.

**NAV:** £35,700

**Lease:** 35 x 5 from 1st September, 1990 at £37,500.

(9) **No. 7 South Anne Street.**

**Occupier:** Ground Floor Shop and basement, Eddie Rockets. Upper floors Benneton.

**Rateable Valuation:** Ground Floor and basement, March 1993 £245.00. Unaltered on appeal. Currently under appeal to the Tribunal.  
Upper floors, £65.00.

**NAV:** Ground and Basement, £38,880  
Upper Floors, £10,317.

**Letting:** The entire premises is let under a lease for 35 years from June, 1988 at £36,000 per annum. The upper floors are sub-let for 2 years and 9 months from November, 1989 at £13,000 per annum.

(10) **No. 34, South Anne Street.****Occupier:** Byrnes Fruiterers.**Rateable Valuation:** March 1993, £195.00 not appealed.**NAV:** £30,952**Lease:** 25 x 5 from the 1st September, 1993. Years 1 and 2 £20,000. Years 3 to 5 £22,500.

A written submission was received on the 18th November, 1994 from Mr. Malachy Oakes, District Valuer with over 20 years experience in the Valuation Office on behalf of the respondent. In his written submission, Mr. Oakes described the premises as set out above and gave details of its tenure. Commenting on the appellant's grounds of appeal, he said, that the valuation was assessed having regard to the size and location and the tone of the list for South Anne Street. Mr. Oakes set out his calculation of the rateable valuation on the subject premises as set out below:-

|   |                |                |  |
|---|----------------|----------------|--|
| "The ground floor shop area is 201ft <sup>2</sup> |                |                |  |
| Zone A  | 175 @ £60.00 = | £10,500        |  |
| Zone B  | 26 @ £30.00 =  | £ 780          |  |
| Basement Stores                                   | 176 @ £ 6.00 = | <u>£ 1,056</u> |  |
| Net Annual Value                                  | Say =          | £12,000        |  |
| R.V.  | @ 0.63% =      | £75.00"        |  |

Mr. Oakes supplied three comparisons in South Anne Street as follows:-

(1) **No. 3, South Anne Street.** R.V. £185.00.Basis:-

|               |        |                               |                |
|---------------|--------|-------------------------------|----------------|
| Ground Floor: | Zone A | 290ft <sup>2</sup> @ £60.00 = | £17,400        |
|               | Zone B | 211ft <sup>2</sup> @ £30.00 = | £ 6,330        |
| First Floor   |        | 359ft <sup>2</sup> @ £12.00 = | £ 4,308        |
| Basement      |        | 231ft <sup>2</sup> @ £ 6.00 = | <u>£ 1,386</u> |
|               |        |                               | £29,426        |

R.V. @ 0.63% = £185.00

(2) **No. 8, South Anne Street.** R.V. £375.00Basis:-

|               |        |                               |         |
|---------------|--------|-------------------------------|---------|
| Ground Floor: | Zone A | 433ft <sup>2</sup> @ £60.00 = | £25,980 |
|---------------|--------|-------------------------------|---------|

|                      |        |                      |          |   |                |
|----------------------|--------|----------------------|----------|---|----------------|
|                      | Zone B | 433ft <sup>2</sup>   | @ £30.00 | = | £12,990        |
|                      | Zone C | 263ft <sup>2</sup>   | @ £15.00 | = | £ 3,945        |
| First Floor:         |        | 534ft <sup>2</sup>   | @ £10.00 | = | £ 5,340        |
| 2nd, 3rd & Basement: |        | 1,941ft <sup>2</sup> | @ £ 6.00 | = | <u>£11,646</u> |
|                      |        |                      |          |   | £59,901        |
| R.V. @ 0.63%         | =      | £377.00              | Say      | = | £375.00        |

(3) **No. 28, South Anne Street.** R.V. £185.00

**Basis:-**

|                    |        |                    |          |   |                |
|--------------------|--------|--------------------|----------|---|----------------|
| Ground Floor Shop: | Zone A | 255ft <sup>2</sup> | @ £62.00 | = | £15,816        |
|                    | Zone B | 255ft <sup>2</sup> | @ £31.00 | = | £ 7,905        |
|                    | Zone C | 255ft <sup>2</sup> | @ £15.50 | = | £ 3,952        |
|                    | Zone D | 159ft <sup>2</sup> | @ £10.00 | = | <u>£ 1,590</u> |
|                    |        |                    |          |   | £29,266        |

**Oral Hearing:**

The oral hearing took place in Dublin on the 25th November, 1994. Michael D. Coyle F.R.I.C.S., F.S.C.S., of Messrs. Palmer McCormack & Partners, appeared on behalf of the appellant. Mr. Malachy Oakes of the Valuation Office appeared on behalf of the respondent. Mr. Brereton, Principal of the appellant company, gave evidence on behalf of the appellant.

The evidence adduced was entirely in accordance with the written submissions above referred to. Both parties agreed that the issue for determination by the Tribunal was whether or not, in assessing net annual value, it should arrive at a figure different from the passing rent having regard to the tone of the list.

**Determination:**

The Tribunal is satisfied that passing rent is best evidence of net annual value. Where such evidence is available there is a heavy onus on any party wishing to argue that net annual value should differ from the passing rent.

Mr. Oakes offered three comparisons. In none of these comparisons did the passing rent exceed the net annual value.

The Tribunal is, therefore, satisfied that net annual value should be based on the passing rent in this case. The passing rent, agreed is £9,750. That figure was reduced by 16.92% on the basis of various improvements. Such improvements should not be taken into consideration in assessing net annual value. Net annual value is, therefore, assessed at £9,750, yielding a rateable valuation of £61.42, say £61.