

Appeal No. VA94/2/039

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

John Murphy t/a Monica John (Dublin) Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop at Map Ref: 1, South Anne Street, Ward: Mansion House, County Borough of Dublin

Quantum - Improvements, location,

B E F O R E

Henry Abbott

S.C. Chairman

Brid Mimmagh

Solicitor

Brian O'Farrell

Valuer

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 3RD DAY OF MARCH, 1995

By Notice of Appeal dated the 29th day of September 1994 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £200.00 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that: "the Net Annual Value adopted by the appeal valuer is excessive and inequitable having regard to similar type properties and to the Valuation Acts of 1986 and 1988."

The Property:

The property comprises a three storey premises with basement situated on South Anne Street, very close to the Grafton Street end. A ladies clothes shop operates on the ground floor and the first floor with storage to the second floor and basement. The ground floor shop comprises an area of 527 square feet with a further 314 square feet of shop to the first floor. Storage to basement comprises 430 square feet and storage to the second floor about 310 square feet. Frontage to South Anne Street is 15 feet 10 inches.

Tenure:

The entire is held under Indenture by Monica John for a term of 35 years commencing 16th September 1985 with 5 yearly reviews, at initial rent of £25,000. Rent on first review fixed at £31,000, 16th September 1990.

The present tenant purchased the leasehold in February '91 for £35,000 and completed the negotiation on first rent review. Improvements to the value of £40,000 were commenced on June - August '91.

Valuation History:

The property was originally valued at £225.00 and on 1993/3 Revision, following a request to revise as necessary, no change was made in R.V. of £225.00. The R.V. was reduced to £200.00 on 1993/3 First Appeal.

Written Submissions:

A written submission prepared on behalf of the appellant by Mr. Peter G. O'Flynn of Messrs. Druker Fanning & Partners was received by the Tribunal on the 13th January, 1995. A written submission was received on the 5th January, 1995 from Mr. Malachy Oakes, District Valuer with 20 years experience in the Valuation Office on behalf of the Respondent.

The thrust of the submission of the appellant is set out as follows:-

"Location:

This is a secondary retail street off Grafton Street. It suffers greatly from the fact that its proximity to Grafton Street leads many retailers into a false impression of trading levels and consequently the street always has a high turnover of tenants. The over-riding factor is that there is a huge differentiation between the two streets and some retailers who have little experience of South Anne Street pay inflated rents on the false impression of being in close proximity to Grafton Street.

Parts of South Anne Street are in a very poor condition, one portion of the street has remained undeveloped for some time and this both adversely affects the remainder of the street and shows the lack of confidence developers and retailers have in the street.

Design and Layout:

This premises has a frontage to South Anne Street of c. 15 ft. The upper floors of the premises do not have a separate access from on street level and therefore cannot be separately let in the open market.

There is a further serious problem in relation to the upper floors of this property. There is no fire access available from the first and second floors of the property and the Fire Officer has stated that these floors cannot be used. Therefore, the only portion of the premises which can be rentalised for Net Annual Value and rent review purposes are the ground floor and basement only.

Net Annual Value of the Subject Premises:

It is my belief that the Appeal Valuer has had absolutely no regard to the Net Annual Value of the subject property in dealing with this Appeal.

The Net Annual Value as described in the Valuation Acts is the rental value of a property at the valuation date, **i.e.** the 1st November 1988. The subject premises are currently held under a lease for a term of 35 years from the 16th September 1985 at an initial annual exclusive rent of IR£25,000 per annum. This analysed as follows:

Ground Floor Retail

527 square feet @ IR£44.00

Basement Stores

430 square feet @ IR£4.00

First Floor

314 square feet @ IR£Zero

Second Floor

310 square feet @ IR£Zero

Total

£25,000

When the property was revised in 1993 the original rateable valuation was assessed at R.V. IR£225. This equated to a Net Annual Value of the property at the valuation date, November 1988, of IR£35,700 per annum.

When looking at the principle evidence in this case, that is the original rental value and the rent as agreed at the first rent review, it is clear that the Revising Valuer assessed the Net Annual Value at an excessive level."

Mr. O'Flynn concluded that the valuation of the subject ought to be £173 and that this valuation is based primarily on the rental evidence of the subject premises which was initially prior to valuation date at £25,000 per annum. This was reviewed in 1991 at £31,000 per annum. A Rateable Valuation £173 represents a Net Annual Value of the subject premises of £27,500 which Mr. O'Flynn believed to be fair and reasonable in so far as the valuation date takes place between the initial letting and the first rent review.

In his written submission Mr. Oakes set out his calculation of the rateable valuation on the subject premises as follows:-

Ground Floor:

Shop:	Zone A:	317 square feet @ £60.00	=	£19,020
	Zone B:	210 square feet @ £30.00	=	£ 6,300

First Floor:

Shop:		314 square feet @ £12.00	=	£ 3,768
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Second Floor:

Store:		310 square feet @ £ 4.00	=	£ 1,240
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Basement:

Stores:		430 square feet @ £ 5.00	=	<u>£ 2,150</u>
				£32,478

R.V. @ 0.63% = £204.00

Say = £200.00

The details of comparable lettings cited by both parties are annexed hereto.

Oral Hearing:

The oral hearing took place in Dublin on the 16th day of January, 1995. Mr. Peter O'Flynn appeared for the appellant and Mr. Malachy Oakes appeared for the respondent. Both valuers gave their evidence in accordance with their precis. The arguments of the appellant relating to the calculation of the net annual value having regard to the passing rent had considerable weight. However, there was a premium on the passing of the lease and some money was spent on improvements. While these cannot have a direct mathematical influence on increasing the N.A.V., they nevertheless do reduce the arguments of the appellant somewhat. Mr. Oakes argued that his comparisons showed a certain "tone of the list" and he urged the valuation fixed on appeal by the Commissioner of Valuation.

Determination

The Tribunal considers that weight should be given to the premium and the level of improvements in addition to the fact that there are some higher rents in the street. The subject is situated at the better end of South Anne Street, benefiting from its proximity to the more buoyant Grafton Street. This is in spite of some difficulties arising from street traders generally on the far side of the street.

Having regard to the foregoing and all the comparisons offered, the Tribunal affirms the valuation of the premises at £200.00.