

Appeal No. VA94/2/040

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

Tom Kennedy t/a Alias Tom

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop at Map Ref: 2 to 5, Upper Duke Lane, Ward: Mansion House, County Borough of Dublin

Quantum - Tone of the list

B E F O R E

Paul Butler

S.C. (Acting Chairman)

Mary Devins

Solicitor

Patrick Riney

F.R.I.C.S. M.I.A.V.I.

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 9TH DAY OF MARCH, 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 £160.00 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 consists of a lock-up shop with basement, on the corner of Duke Lane Upper and Lemon Street, opposite the Hibernian Way development. The ground floor shop has an area of 584 square feet and the basement shop has an area of 502 square feet. A gentlemen's clothes shop operates from the premises.

All principal services including mains water and drainage, electricity and telephone are supplied and connected to the premises.

Tenure:

The property is held under a 35 year lease from the 4th March, 1989 at £28,000 per annum. This lease is a renewal of expired 21 year lease.

Valuation History:

The property was originally valued on 1969 First Appeal at £125.00. It was listed for 1993/3 Revision by Dublin Corporation to "revise as necessary" and the R.V. was increased to £170.00. At First Appeal stage the Commissioner of Valuation reduced the R.V. to £160.00 and it is against this figure that an appeal now lies to the Tribunal.

Written Submissions:

A written submission was received on the 18th January, 1995 from Mr. Peter G. O'Flynn of Messrs. Druker Fanning & Partners on behalf of the appellant. In his written submission, Mr. O'Flynn set out the description of the property, its location and valuation history.

Mr. O'Flynn said that the rent review on the subject premises which took place in March, 1989 directly followed the development of the Royal Hibernian Way. Mr. O'Flynn argued that the rental evidence used by the Landlord at the time when making his case was based on the rents achieved in the Royal Hibernian Way on or slightly before the review date. At that time, Mr. O'Flynn stated, that there was very little other rental evidence in the immediate area which would support the tenant's case, and produce a lower rent.

The rent review for 1994 on the subject premises has taken place and no increase in rent has been agreed.

In his written submission, Mr. O'Flynn set out his calculation of the rateable valuation of the premises as follows:-

Open Market Rental Value:

Analysis:-

Ground Floor Shop:	584 sq.ft.	@	IR£31.64 p.s.f.	IR£18,482
Basement:	502 sq.ft.	@	IR£ 9.00 p.s.f.	<u>IR£ 4,518</u>
				IR£23,000

@ 25% to reduce to 1988 values:-

Analysis:-

Ground Floor Shop:	584 sq.ft.	@	IR£24.63 p.s.f.	IR£14,384
Basement:	502 sq.ft.	@	IR£ 8.00 p.s.f.	<u>IR£ 4,016</u>
				IR£18,400

@ 0.63% = R.V. £116

A written submission was received on the 5th January, 1995 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 set out the description of the property, its location and valuation history as outlined above. Commenting on the grounds of appeal, of the appellant, Mr. Oakes said that the valuation had been fixed with regard to similar type properties recently revised and in particular to the next door property, No. 8a Lemon Street, **VA91/2/041 - Mervyn Robinson, Seebeck Limited t/a Strawbridge.**

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

Ground Floor:

Shop: 584ft² @ £35.00 = £20,440

Basement:

Shop: 502ft² @ £10.00 = £ 5,020
£25,460

R.V. @ 0.63% = £160.00

A number of comparative properties were offered by both parties and these are appended to the judgement as Appendix A. _____

Oral Hearing:

The oral hearing took place in Dublin on the 20th January, 1995. Mr. Peter O'Flynn appeared on behalf of the appellant and Mr. Malachy Oakes appeared on behalf of the respondent. Both valuers gave evidence in accordance with their written submissions. Mr. Oakes arrived at a Net Annual Value of £25,460 and Mr. O'Flynn arrived at a Net Annual Value of £18,400.

The premises are held under a 35 year lease from the 25th March, 1984. Prior to the 1989 rent review the rent was £16,000 per annum but, when reviewed in March, 1989, a rent of £28,000 per annum was agreed and therefore, it is safe to assume that an appropriate rent towards the end of 1988 would have exceeded £25,000.

As in other cases, the Tribunal is satisfied that the passing rent is the 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.

Determination:

The Tribunal has considered the written submissions and evidence given and is of the view that the weight of the evidence and the tone of the list suggests that on the relevant date Net Annual Value would have been in the order of £25,000, if not more. The Commissioner of Valuation has determined his valuation of £160.00 on the basis of a Net Annual Value of £25,460. The Tribunal, therefore, affirms the rateable valuation at £160.00.