

Status of Judgment: Distributed

Appeal No. VA94/3/021

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

Macs Meats Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop at Map Ref: Unit 5A, Townland: Douglas Shopping Centre, ED: Douglas, RD: Cork Lower, Co. Cork

Quantum - Passing rent, adjoining unit vacant

B E F O R E

Veronica Gates

Barrister (Acting Chairman)

Joe Carey

P.C. M.I.A.V.I.

Brid Mimmagh

Solicitor

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 20TH DAY OF JUNE, 1995

By Notice of Appeal dated the 21st day of October 1994 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £100 on the above described hereditament.

The grounds of appeal are that the valuation of £100 is excessive having regard to the nature of the property, the level of business done at the premises which has fallen significantly over the past ten years and having regard to the existence of a new shopping centre in the area. There has been no increase in the market value of the property which would justify an increase in the rateable valuation over the pre-revision valuation of £66.

The Property:

The property comprises a retail unit in the Douglas shopping centre. Douglas shopping centre is located at Douglas village, about 2½ miles from Cork city centre. Unit 5A is a retail meat shop with a floor area of 1,391 square feet. It is a rectangular unit having a 19 foot frontage.

Tenure:

Unit 5A is held on an F.R.I/35 year lease from 1/12/1971 at an annual rent of £18,860 fixed at 1/12/1992. 5 year review pattern. The next review date is 1/7/1997.

Valuation History:

The property was first valued as part of the valuation of the Douglas shopping centre in 1972 and a valuation of £66 RV was fixed. This valuation stood until the 1992/94 revision when the valuation was increased to £120. In 1991 O'Callaghan properties took over ownership of the centre from Royal Liver. In 1992 over 20,000 square feet of gross floor space was added to the centre incorporating nine new units, the enclosure of the centre and the organisation of space within the centre. The appellant appealed the valuation of £120 and at first appeal the valuation was reduced to £100. It is against this determination of the Commissioner of Valuation that an appeal lies to the Tribunal.

Written Submissions:

A written submission was received on the 15th day of June 1995 from Mr. Pat Bradley of J.W. O'Donovan & Company, Solicitors on behalf of the appellant.

In the written submission, Mr. Bradley described the valuation history of the subject premises. Mr. Bradley said that while the works carried out to the shopping centre had added to the amenity of the centre it in no way doubled the value of the subject premises as maintained in the original valuation or increase its value by an excess of 50% as now maintained by the Commissioner of Valuation. He said that the increase was offset by the opening of a second shopping centre in the area, namely Douglas Court Shopping Centre.

Mr. Bradley also made the point that the public area of this unit was smaller than others in the centre as it had not been extended since the erection of the unit. He said that there had been no increase in the level of business done in the premises over the ten years to justify an increase in valuation. In fact, he said that the level of business done had in real terms fallen

significantly over the last ten years. Mr. Bradley proposed a valuation of £66.00 or a figure close to it as a more appropriate valuation on the subject premises.

A written submission was received on the 2nd day of June 1995 from Mr. Kevin Heery, a District Valuer with 25 years experience in the Valuation Office.

In his written submission, Mr. Heery described the property and its valuation history as set out above. Commenting on the appellant's grounds of appeal, Mr. Heery said that the character of Douglas shopping centre has undergone a radical transformation since originally valued in 1972. In his opinion he said that the valuation of £100 was fair and in line with the tone of the valuation list. He set out his calculation of the valuation on the subject premises as follows:

NAV 1,391 square feet @ £14.50 per square foot = £20,170

RV @ 0.5%	£100.85
Say RV	£100.00

Note (1) Factor changed from 0.63% (Revision) to reflect ruling of Valuation Tribunal in respect of RD Cork.

Note (2) Lower than average rate per square foot taken to reflect the fact that this is one of the larger units in the centre.

Mr. Heery said that in relation to his valuation it was important to point out that in 1992 the Douglas shopping centre was an entirely different entity to that originally valued in 1972. In relation to the rents on the property, Mr. Heery said that concessionary rents were offered to the tenants for the 1992 review to obtain their co-operation for the redevelopment and to obtain their agreement for a switch from a seven year rent review pattern to a five year rent review pattern. The 1992 rents are, thus, below open market rental levels. Mr. Heery added that 39 units in the shopping centre were revised in 1992. 32 were the subject of first appeals in 1992 and that agreement had been reached in all cases except the subject appeal, which was the only appeal lodged to the Valuation Tribunal.

Mr. Heery offered the following comparative evidence to support the valuation on the subject premises:

(1) Unit 5B 1,273 square feet @ £15 per square foot = RV £96

Note Their unit adjoins subject property. It is a similar unit with the exception that small portion of Unit 5A extends into back of Unit 5B thereby increasing the square footage of subject unit.

- (2) Unit 17 1,225 square feet @ £15 per square foot = RV £ 92
- (3) Unit 34 1,060 square feet @ £16 per square foot = RV £ 86
- (4) Unit 22/24 2,280 square feet @ £14 per square foot = RV £130
- (5) Unit 10 850 square feet @ £17 per square foot = RV £ 72

Oral Hearing:

The oral hearing took place in the Council Chambers, Cork on the 20th day of June 1995. Mr. Patrick Bradley, Solicitor appeared on behalf of the appellant and Mr. Kevin Heery represented the respondent. Mr. Patrick McSweeney, a Director of the appellant company was also in attendance.

Mr. Bradley said that in 1972 the shopping centre in which the subject premises is situated was one of the first of its kind in the Cork area. However, by 1992 it was considerably outdated and a number of other enclosed shopping centres had opened in Cork. Mr. Bradley conceded that the work carried out in 1992 added to the overall amenity of the centre but that this has been offset by the opening of the new Douglas Shopping Centre in 1991 which is a much larger shopping centre comprising some 70 units.

Mr. Bradley said that there has been no increase in the appellant's business. In fact business was better in the early 1980's than at present. The unit next door to the subject has been vacant for approximately 2 years.

Mr. Heery said that approximately £5 million had been spent on updating the shopping centre. In his opinion the shopping centre has been radically changed by the improvements carried out in 1992. He said that the present valuation is fair and reasonable and that he has taken into account the size and shape of the subject in valuing it at £14.50 per square foot.

Determination:

The Tribunal has considered the written and oral submissions of both parties. The Tribunal has taken into consideration the fact that unit 5B adjoining the subject has been vacant for approximately 2 years and that the passing rent of £18,860 is the best evidence of NAV. Therefore, the Tribunal is of the opinion that the correct RV for the subject premises is £94.00 and so determines.