

Appeal No. VA94/3/031

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

**Richard C. O'Higgins**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Offices (1st floor & 2nd floor) at Map Ref: 38, William Street South, Ward: Royal Exchange B, County Borough of Dublin

Quantum - Measuring practice, passing rent, tone of the list

**B E F O R E**

**Henry Abbott**

**S.C. Chairman**

**Brid Mimmagh**

**Solicitor**

**Fred Devlin**

**F.R.I.C.S. A.C.I. Arb.**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 27TH DAY OF OCTOBER, 1995**

By Notice of Appeal dated the 28th day of October 1994 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £30 on the above described hereditament.

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

- "(1) the valuation is excessive and inequitable
- (2) the valuation is bad in law."

**The Property:**

The property consists of the first and second floor offices vacant and for letting opposite the new hotel in a central location.

**Valuation History:**

- (1) Following request from Local Authority "to revise and amalgamate" the valuation was issued at £30.
- (2) At first appeal no change was made to the rateable valuation.

**Written Submissions:**

A written submission was received on the 19th day of June 1995 from Ms. Sheelagh O'Buachalla, BA and an Associate of the Society of Chartered Surveyors, of Donal O'Buachalla & Company Limited on behalf of the appellant.

Ms. O'Buachalla said that there was a passing rent of £3,500 in respect of the first floor offices, 47 South William Street which devalues at £6psf.

Ms. O'Buachalla set out her estimate of valuation on behalf of the appellant as follows:-

- |     |                 |                         |                      |
|-----|-----------------|-------------------------|----------------------|
| (a) | 1991 Rent       | £5,000 adjusted to 1988 |                      |
|     |                 | Say 7% pa               | £3,950 NAV           |
|     |                 | @ 0.63%                 | £24.88               |
|     |                 | Say                     | £25 RV               |
| (b) | 600 sq.ft. @ £6 |                         | £3,600 NAV<br>£23 RV |

A written submission was received on the 22nd day of June 1995 from Mr. Patrick Deegan, Barrister-at-Law and Valuer with over 19 years experience in the Valuation Office on behalf of the respondent.

In the written submission, Mr. Deegan set out his estimate of rateable valuation as follows:-

**Valuation:**

1,020 sq.ft. : £5 = £5,000  
 Estimated net annual value    £5,000 x 0.63% = £31.50  
    Say        = £30.00.

Mr. Deegan also gave details of the following comparisons:-

**South William Street**

Lot 3a	Offices	1st floor	296	@	£7.00	= R.V. £30.00
		2nd floor	296	@	£5.00	
		3rd floor	284	@	£4.00	
Lot 2a	Offices	1st floor	360	@	£7.00	= R.V. £25.00
	Offices	2nd floor	349	@	£5.00	
Lot 45	Offices	1st floor	828	@	£6.00	
	Offices	2nd floor	461	@	£4.00	
	Offices	3rd floor	461	@	£3.00	
	Showroom	Gr. floor	828	@	£12.00	
Lot 49	Showroom	Gr. floor	1980	@	£9.00	= R.V. £189.00
		1st floor	1174	@	£6.00	
		Basement	1035	@	£3.00	
Lot 47	Restaurant	Gr. floor	1404	@	£20.00	
	Offices	1st floor		@	£6.00	
		Basement		@	£3.50	
Lot 27	Offices	2nd floor front		@	£7.00	
	Store	2nd floor back		@	£7.00	
Lot 24	Warehouse	2nd floor	360	@	£8.00	
Lot 66	Offices	1st floor	350	@	£6.00	
		2nd floor	280	@	£4.00	
		3rd floor	280	@	£3.00	
Lot 22	Workroom	2nd floor	650 sq.ft.	@	£4.00.	

**Oral Hearing:**

The oral hearing took place in Dublin on the 30th day of June 1995 and the 7th day of July 1995. Ms. Sheelagh O'Buachalla appeared for the appellant and Mr. Patrick Deegan appeared for the respondent.

Difficulty arose in relation to the fact that many of the comparisons offered by Mr. Deegan were measured on a gross basis whereas Ms. O'Buachalla suggested the code of measuring practice which had been adopted jointly by the Valuation Office and the Society of Chartered Surveyors in respect of offices was the net internal area excluding stairs, corridor and toilets

etc. Mr. Deegan responded that his comparisons had been valued on the basis of gross areas and this was an accepted practice. The matter was adjourned to allow further clarification by discussion between the parties as there had been minimal discussion regarding this issue before. A further letter from Ms. O'Buachalla arrived before the resumed oral hearing on the 7th day of July 1995 and this is appended hereto regarding the clarification of the areas.

The Tribunal heard discussion in relation to the property and submissions from Mr. Deegan that he had sought to establish valuations in accordance with the 'Tone of the List' and not necessarily being swayed by a passing rent in any one particular property.

**Determination:**

While the Tribunal is mindful of the necessity to preserve the 'Tone of the List' in the area it also accepts that if a consistent number of premises are offered on a gross measurement basis, they nevertheless constitute good comparisons notwithstanding the desirability of having uniformity of measuring practice. This uniformity would point towards using the net measurement basis. However, as Mr. Deegan had stated that very often access for internal inspection at an early stage of the valuation process may not be obtained, a practice has developed of accepting the gross basis as a common method of measurement. This is not a satisfactory situation but it is one which the Tribunal must reluctantly accept and work with in the cases in which it arises. The desirability of having a common and consistently applied code of practice is obvious and the Tribunal would wish that wherever possible this consistency would be striven for. However, the Tribunal should consider the passing rent as an indicator of the direction in which the Tribunal should go even in a case where the Tribunal is satisfied that there is a reasonable 'Tone of the List'. This has been a consistent approach of the Tribunal in relation to such valuations. Given the weight of evidence pointing to £5-£6 gross for 1st floor space being an objective net annual value, the Tribunal is reluctant to accept without evidence the full adjustment of 7% per year back to 1988 as suggested by Ms. O'Buachalla.

Accordingly, the Tribunal having regard to all the comparisons offered and the passing rent and an appropriate adjustment balancing the circumstances of the case to establish an objective net annual value, the Tribunal determines the rateable valuation at £27.

