

Appeal No. VA94/3/039

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

**Richard Drumgoole (Huntsgrove Developments)**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Shop at Map Ref: 9A/Unit 12, Ashbourne Town Centre, Townland: Killeland, E.D.  
Donaghmore, R.D. Dunshaughlin, Co. Meath  
Quantum - Units in SC, actual market conditions to be considered.

**B E F O R E**

**Mary Devins**

**Solicitor (Acting Chairman)**

**Veronica Gates**

**Barrister**

**Fred Devlin**

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

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 27TH DAY OF MARCH, 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 £36.00 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 subject of this appeal is a ground floor retail unit in the Ashbourne Town Centre which is located at the northern end of the town.

The Ashbourne Town Centre is a modern two storey development completed in or about 1991 and comprises a supermarket at ground floor level, 18 unit shops and 8 office suites at first floor level together with off street car parking for approximately 200 cars.

The subject unit i.e. Unit No. 12 has a net internal area of 726 square feet and is occupied under a 25 year lease from 1st January, 1992 at an initial rent of £8,500 per annum for the first year increasing to £9,500 per annum for the next four years with a rent review at the end of the fifth year. The facts relating to Unit 12 are not in dispute as the valuers have agreed the area and other relevant information.

**Valuation History:**

Unit 12 together with all the other units in the Centre was first valued in 1992 and the rateable valuation was fixed at £36.00. An appeal was lodged against this assessment and the Commissioner of Valuation made no change. It is against this decision that an appeal lies to the Valuation Tribunal.

**Written Submissions:**

A written submission in respect of this unit and 12 other units in the Ashbourne Town Centre i.e. 6 retail units at ground floor level and 6 office suites at first floor level was received on 30th January, 1995 from Mr. Desmond Killen, F.R.I.C.S. I.R.R.V, a director of Donal O'Buachalla & Company Limited.

In his submission Mr. Killen described the Centre, its location and gave details of the valuation history and other relevant matters. He stated that there was a paucity of evidence in the Ashbourne area to enable him to comply with Section 5 of the Valuation Act, 1986. He had carried out an examination of the Valuation List and found that few valuations of commercial properties had been carried out post 1989 and hence there was not the degree of uniformity found in the Ashbourne area as found elsewhere in the County Dublin area. Nonetheless it was common cause that the appropriate factor to apply to Net Annual Value in order to arrive at rateable valuation was 0.5%.

Mr. Killen pointed out that whilst the ground floor units were all let at the outset two units had subsequently become vacant and re-let at rents below those originally obtained. This led

him to the conclusion that the original rents were very high and he opined that the tenants would resist any uplift in rent at the first rent review in 1997. He concluded that the rents passing were in excess of market values as envisaged by Section 11 of the Valuation Act, 1852. In this regard he drew the Tribunal's attention to previous decisions of the Tribunal vis *VA93/3/024 - Sarah Chan, Mountainview Shopping Centre* , *VA93/1/053 - Noel Duignan t/a The Village Shop* and *VA93/1/072 - Valerie Mitton, Bibas Boutique*.

In his written submission Mr. Killen set out in tabular form an analysis of the various lettings within the Town Centre and details of the NAV's and RV's of each unit.

Mr. Killen also stated that the rents within the Centre were agreed in or about 1992 and had to be adjusted to 1988 levels. In his opinion the respondent had not made an adequate adjustment in this regard.

In conclusion Mr. Killen submitted that the proper rateable valuation for Unit 12 was £29.00 as against the valuation of £36.00 determined by the Commissioner of Valuation.

A written submission was received on 2nd February, 1995 from Mr. Patrick McMorrow B.Ag.Sc(Econ), Dip. Planning and Development Economics, a valuer in the Valuation Office representing the respondent.

Mr. McMorrow in his written submission described the Centre in some detail and commented on the fact that it had a successful anchor supermarket occupier and a good tenant mix. He outlined the valuation history of the Centre and drew attention to the fact that whilst 26 units were subject to First Appeal only 13 have proceeded to appeal to the Valuation Tribunal.

Mr. McMorrow stated that the primary supporting evidence for the assessments now before the Tribunal was that in relation to other units within the Centre as fixed at the 1992 First Appeal stage. Additional support was to be drawn from the rental evidence and NAV's at Rathoath Shopping Centre and a shop in the Mall at the Broadmeadow Housing Estate. Both of these shopping developments in his opinion were inferior to the Ashbourne Town Centre and the evidence derived from these comparisons indicated that if anything the NAV of the subject unit was low.

Details of his comparisons are set out at Appendix 1.

**Oral Hearing:**

The oral hearing was held on the 10th February, 1995 in Dublin and Mr. Desmond Killen and Mr. Patrick McMorro appeared on behalf of the Appellant and Respondent respectively.

Mr. Killen spoke to his written submission and commented on the physical characteristics and layout of the Town Centre. He also referred to the Broadmeadow Shopping Centre which was he said located at the other end of Ashbourne within a large residential development of some 900 houses. All the shops at Broadmeadow faced onto a car park which had parking for approximately 50 cars.

Mr. Killen highlighted the fact that in recent years the rate in the pound in County Meath had increased at more than twice the rate of inflation and that this must impact on rental levels. He again submitted that the rents obtained in 1992 were too high and argued that this was supported by subsequent events whereby units that became vacant were re-let at lower levels. He further submitted that Mr. McMorro was incorrect in stating that the assessments of other units within the Centre which had not appealed to the Tribunal was primary supporting evidence.

Mr. McMorro stated that in his opinion the valuation attributable to the subject unit was correct and supported by rental levels within the Centre. Additional support was given by the rents being paid at Rathoath Shopping Centre and the rent obtained for the shop at the Broadmeadow Housing Estate. The rateable valuation of the subject property and the comparisons showed a consistent pattern.

Whilst the facts relating to these comparisons were not in dispute Mr. Killen did express some reservations regarding their assistance to the Tribunal.

**Determination:**

The Tribunal considers that in determining Net Annual Value most weight should be given to rental evidence.

In his submission Mr. McMorro has relied upon the rent being paid for the subject unit and for other similarly sized units within the Ashbourne Town Centre. He has drawn support from the rental evidence at the Rathoath Shopping Centre and the shop at the Broadmeadow Shopping Centre.

Mr. Killen however in his well presented evidence argued that the rents obtained within the Centre were too high and drew support for this contention by the fact that such re-lettings that had occurred were at levels below the rents originally obtained. He also opined that insufficient allowance had been made to reflect the fact that the rents were agreed at 1992 levels.

The Tribunal has carefully examined all the evidence and arguments adduced by the valuers and has concluded that Mr. McMorrow's opinion has considerable merit.

The Tribunal therefore prefers Mr. McMorrow's opinion of value and considers the existing rateable valuation of £36.00 in respect of Unit 12 to be fair and reasonable and accordingly affirms the valuation.

At the oral hearing current evidence was given in respect of seven other retail units at ground floor level and which were also the subject of appeals to the Tribunal.

Details of the seven other units under appeal are as follows:-

- (1) ***VA94/3/041 - Marie Gaughran t/a Smarty Pants.***  
Shop at Map Ref: 9A/Unit 9, Ashbourne Town Centre. R.V. £37.00
- (2) ***VA94/3/044 - Paul Grimes & Associates Limited.***  
Offices at Map Ref: 9A/Unit 1, Ashbourne Town Centre. R.V. £40.00
- (3) ***VA94/3/048 - Attracta Burke.***  
Shop at Map Ref: 9A/Unit 2A, Ashbourne Town Centre. R.V. £30.00
- (4) ***VA94/3/049 - Laurence Coleman & Robert O'Brien.***  
Shop at Map Ref: 9A/Unit 3, Ashbourne Town Centre. R.V. £60.00
- (5) ***VA94/3/050 - Paul M. O'Sullivan t/a Eyetech Opticians.***  
Shop at Map Ref: 9A/Unit 7, Ashbourne Town Centre. R.V. £59.00
- (6) ***VA94/3/051 - Michael King t/a Seasons Dry Cleaners.***  
Shop at Map Ref: 9A/Unit 5, Ashbourne Town Centre. R.V. £37.00

(7) ***VA94/3/052 - Breda Fenn & Ethel Geoghegan t/a Tara Travel.***

Shop at Map Ref: 9A/Unit 8, Ashbourne Town Centre. R.V. £20.00

The Tribunal considers the evidence adduced in regard to Unit 12 (VA94/3/039) to apply equally to each of the above hereditaments and determines in each instance that the rateable valuation as determined by the Commissioner of Valuation is fair and reasonable and accordingly affirms the valuations as set out above in respect of each appeal.