

Appeal No. VA94/3/040

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

Bord na gCeapairi

APPELLANT

and

Commissioner of Valuation

RESPONDENT

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

Quantum - Comparisons

B E F O R E
Henry Abbott

S.C. Chairman

Paddy Farry

Solicitor

Fred Devlin

FRICS.ACI Arb.

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 20TH DAY OF NOVEMBER, 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 £60 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 is situated on the southern side of South Leinster Street, backing onto the grounds of Trinity College. It trades as a newsagent's shop and is well located to serve the needs of a good pedestrian flow created by the nearby Westland Row train station and also the considerable number of office buildings in the vicinity.

The premises consists of a ground floor shop and a basement (with separate valuation). The shop has a frontage of approximately 20 feet and a total floor area of about 349 square feet.

The premises is in reasonable condition and has the benefit of all main services.

Tenure:

Twenty one year lease expired in 1993 and a new lease is currently under negotiation.

Valuation History:

The ground floor shop was first valued separately from the basement in 1954 and the valuation was fixed at £45. This valuation was reduced to £35 on 1958 Revision. The premises was listed for Revision in 1993 and the valuation was increased to £75.

Written Submissions:

A written submission was received on the 11th day of August 1995, from Mr. Desmond M. Killen, FRICS FSCS IRRV, a Fellow of the Chartered Surveyors in the Republic of Ireland and a Director of Donal O'Buachalla & Company on behalf of the appellant.

The appellant's submission set out with particularity two grounds of appeal. The first issue on that appeal related to the fact that there were two hereditaments in the Valuation Lists as Local No. 1 South Leinster Street, viz.

- | | | | |
|-----|--------------|----------------------|-----------|
| (a) | The subject | 'Shop' | RV = £60 |
| (b) | The basement | 'Hairdressing Salon' | RV = £20. |

The appellant submitted that at the 1993 Revision only one lot i.e. the subject shop rateable valuation £35 was listed for Revision. The valuation was increased to rateable valuation £75 and reduced on appeal to rateable valuation £60. The surveyed area of the shop is approximately 17ft 6in x 19ft = 333sq.ft.

The appellant argued that an investigation into the valuation surveys which the respondent supplied clearly indicated on the 1960 Revision, p.25 that the hereditament was:

Shop	14½ x 14½	
less	x 2½ x 7	22½ square yards
Toilet	6 x 4½	3 square yards

The occupier was Cecelia Solomon and it is indicated that a separate entrance was provided for access to the basement, thereby reducing the area of shop.

The appellant herein, holds this hereditament under a 21 year lease which expired in November 1993, at a rent of £560pa. This lease was acquired from Solomon in 1975 at a cost of £8,500.

The basement, which was neither listed for Revision nor under Appeal, is held under a separate lease. This is a thirty five year lease, with five year reviews, reviewed in 1994 at £2,500pa. It was only when this lease was taken over in 1989, with its ground floor access to the basement, that Bord na gCeapairi was in a position to extend the ground floor shop to its present size and provide a very narrow single stairway access to the basement, which is now used as a kitchen/preparation room and stores.

From the foregoing, he said that it was clear that the hereditament, which was listed for Revision, and which was held under a separate contract of tenancy, was some 25½ square yards in area.

The appellant concluded the submissions relating to the size of the hereditament and the valuation as follows:

- (1) The hereditament listed for Revision is per Valuation Office survey 25½ square yards.
- (2) Valuation should be: Shop 230 sq.ft. @ £20. NAV £4,600. RV @ 0.63% = £29.

A written submission was received on the 10th day of August 1995, from Mr. Tom Cuddihy B.Agr.Sc., a District Valuer with 28 years experience in the Valuation Office on behalf of the respondent.

The respondents submission offered the following valuation:

Ground Floor Shop	349 sq.ft. @ £28 psf	=	£9,772
Est. NAV	£9,700 x 0.63%	=	£61.11. Say £60 RV.

and offered the following comparisons:

(1)	15 South Leinster Street	-	1993 Revision		
	Shop - Zone A		390 sq.ft. @ £35.00 psf	=£13,650	
	Zone B		150 sq.ft. @ £17.50 psf	=£ 2,625	
	Basement - Stores		282 sq.ft. @ £ 5.00 psf	=£ <u>1,410</u>	
				£17,685	
	Est. NAV	=	£17,685 x 0.63%	=	£111
	RV	=	£110.		
(2)	17 South Leinster Street	-	1993 Revision		
	Shop - Zone A		348 sq.ft. @ £35.00 psf	=	£12,180
	Basement - Kitchen & Stores		376 sq.ft. @ £ 5.00 psf	=	£ 1,880
	Other Stores		141 sq.ft. @ £ 3.00 psf	=	£ <u>423</u>
					£14,423
	Est. NAV	=	£14,423 x 0.63%	=	£91.11
	RV	=	£90.		
(3)	19 Clare Street	-	1993 Revision		
	Shop - Zone A		266 sq.ft. @ £30 psf	=£ 7,980	
	Zone B		71 sq.ft. @ £15 psf	=£ 1,065	
	Basement		256 sq.ft. @ £ 2 psf	=£ <u>512</u>	
				£ 9,557	
	Est. NAV	=	£9,557 x 0.63%	=	£60.20
	RV	=	£60.		

He submitted that the comparative evidence showed that the rateable valuation of the subject compared very favourably with that of shops on the opposite side of the street.

Oral Hearing:

The oral hearing took place in Dublin on the 23rd day of August 1995. Mr. Des Killen appeared on behalf of the appellant and Mr. Tom Cuddihy appeared on behalf of the respondent.

Mr. Killen referred to the Appendix B of the submission containing extracts from the records of the Valuation Office regarding revision of valuation and indicated that in 1961 a note

appeared that there was now a separate entrance to the basement below leaving the shop smaller. He pointed out that the measurements of the shop were practically identical to his own.

Mr. Cuddihy argued that the fact that the valuation of the premises had been left at £35 indicated that there was no change in the rateable valuation notwithstanding the fact that some private arrangement might have been made which did not amount to a change of letting or occupancy. As the appellant was not in the position to supply any documentary evidence, the issue on the size of the hereditament was adjourned pending production of same for consideration by the Tribunal.

The Tribunal was furnished with estimated net annual value figures for the Taj Mahal premises on the opposite side of the road and in respect of the next door premises Take 5 restaurant. The Tribunal heard from Mr. Killen that the comparison offered by him, No. 3 South Leinster Street, was the best comparison, that it established his estimate of net annual value for the subject on a square footage basis. Mr. Cuddihy placed emphasis on the fact that there was a good deal of office activity in the area and that the subject was on one of the main pedestrian routes from Westland Row railway station. This provided a good supply of customers for the sandwich bar business which was carried on in the subject. Mr. Killen argued that the respondent's comparisons were generally on the other side of the road and that they enjoyed the main thrust of the business and tourist trade and pedestrian traffic which proceeded on a continuous basis. The subject, he said could not get the same benefit from this type of traffic. Mr. Killen rejected the contention of Mr. Cuddihy that his only comparison was in respect of a much larger premises by indicating that as he had compared Zone A rents in each instance that would deal with any possible quantum variation.

Determination:

The Tribunal has considered all the comparisons but is more inclined to be influenced by the comparison offered by the appellant. The Tribunal has also considered the copies of the leases delivered to it following the hearing and is satisfied that an adjustment should be made for hall and stairs. In these circumstances the valuation fixed by the Tribunal is £32 and so determines.

