

Appeal No. VA94/3/089

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

Graham Ruttle, The Kawasaki Centre

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop at Map Ref: 3a.4a Wexford Street, Ward: Royal Exchange, County Borough of Dublin

Quantum - Passing rent, location , tone of the list

B E F O R E

Henry Abbott

S.C. Chairman

Veronica Gates

Barrister

Brian O'Farrell

Valuer

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 28TH DAY OF SEPTEMBER, 1995

By Notice of Appeal dated the 2nd day of November, 1994 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £125 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that "the valuation is excessive and inequitable having regard to the provisions of the Valuation Acts and on other grounds".

The Property:

The premises comprises a motor cycle shop situated close to the junction of Wexford Street and Kevin Street with excellent display area and fronting the street. The premises is let on a 35 year lease with 5 yearly rent reviews, at a rent of £15,500 per annum - rent review 1993.

Valuation History:

Following a request from Dublin Corporation to 'revise as necessary' the rateable valuation was fixed at £125. Previously Lot 3a had a rateable valuation of £65 and Lot 4a had a rateable valuation of £60. No change was made to the rateable valuation at First Appeal. It is against this determination of the Commissioner of Valuation that an appeal now lies to the Tribunal.

Written Submission:

A written submission was received on the 19th May, 1995 from Mr. Eamonn O'Kennedy, B.Comm M.I.A.V.I., Valuation and Rating Consultant of O'Kennedy & Company, 47 Merrion Square, Dublin 2 on behalf of the appellant.

In his written submission, Mr. O'Kennedy set out the description of the property and its location. Commenting on the general appearance of the premises, he said that the shop was restricted for its present use as it required a lot of storage space for motor cycles but that the premises itself was in fair decorative condition.

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

"Open Market Rental Value as at 1st May 1993	=	£15,500
Open Market Rental Value as at 1st May 1988	=	£12,000
Open Market Rental Value as at 1st November, 1988	=	£12,500
R.V. @ 0.63 of 1% £12,500	=	£ 78.00"

Mr. O'Kennedy gave details of one comparison as follows:-

- (1) Frank Cronin Menswear, 27 Camden Street, Dublin 2
Ground Floor: 1,500 sq.ft.
R.V. £120 reduced to £78.00 on 1992 First Appeal.

A written submission was received on the 22nd May, 1995 from Mr. Patrick Deegan,

Barrister-at-Law and Valuer with over 18 years experience in the Valuation Office on behalf of the respondent. In his written submission, Mr. Deegan set out the description of the property and its valuation history as outlined above.

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

"	630 sq.ft.	@	£20.00 =	£12,600
	930 sq.ft.	@	£10.00 =	£ 6,300
	38 sq.ft.	@	£ 3.00 =	£ 190
Mezzanine:	434 sq.ft.	@	£ 2.00 =	<u>£ 868</u>
				£19,958
		Say	=	£20,000
Est. NAV:	£20,000 x 0.63%		=	£126.00
		Say	=	£125.00
Previously valued at:	£65.00 + £60.00		=	£125.00"

Mr. Deegan gave details of six comparable properties on Wexford Street as follows:-

- (1) **Lot 2a, Wexford Street**

Shop:	341 sq.ft.	@	£20.00	
	341 sq.ft.	@	£10.00	
	77 sq.ft.	@	£ 5.00	= RV £70.00
- (2) **Lot 6, Wexford Street**

Shop:	200 sq.ft.	@	£20.00	Rent = £7,000
	200 sq.ft.	@	£10.00	
	200 sq.ft.	@	£ 5.00	
	51 sq.ft.	@	£ 2.50	= RV £48.00
- (3) **Lot 7, Wexford Street**

Shop:	180 sq.ft.	@	£20.00	Rent = £6,500
	180 sq.ft.	@	£10.00	
	152 sq.ft.	@	£ 5.00	= RV £40.00
- (4) **Lot 14, Wexford Street**

Shop:	200 sq.ft.	@	£20.00	Rent = £6,700
	200 sq.ft.	@	£10.00	
	16 sq.ft.	@	£ 5.00	= RV £40
- (5) **Lot 19,19a, Wexford Street**

Shop:	325 sq.ft.	@	£20.00		
Supermarket:	325 sq.ft.	@	£10.00		
	325 sq.ft.	@	£ 5.00		
	850 sq.ft.	@	£ 2.50	=	RV £90

(6) Lot 21, Wexford Street

Shop:	325 sq.ft.	@	£22.00		
	265 sq.ft.	@	£11.00		
	504 sq.ft.	@	£ 5.00	=	RV £75

Oral Hearing:

The oral hearing took place in Dublin on the 29th day of May 1995. Mr. Eamonn O'Kennedy appeared on behalf of the appellant and Mr. Patrick Deegan appeared on behalf of the respondent.

The difference of approach of the two valuers was noted insofar as Mr. O'Kennedy pressed forward his claim that the valuation of the subject ought to be determined primarily on a conversion of the passing rent to net annual value directly and reduction to a valuation by the appropriate application of 0.63%. Mr. Deegan argued for consistency in the level of rates offering his comparisons based on effectively a square footage assessment which he claimed established a consistency and a 'tone of the list' for the vicinity of the subject premises.

Findings:

While the Tribunal is disposed to accepting Mr. Deegan's overall submission that it should be concerned with equity, it is mindful that the Valuation Acts and in particular the Valuation Act 1986 has as its policy the attainment of equity through the use of net annual value as the primary tool of valuation. Predominantly the Tribunal has regarded passing rents as the most objective way of measuring net annual value. Of course in particular cases a passing rent may not reflect fully the net annual value by reason of a possible connection between the parties to the lease or by reason of the fact that the tenant occupier may have improved the premises considerably by the addition of alterations and fixtures.

The Tribunal is therefore anxious to give careful attention to the submissions of both parties in this case and having regard to the fact that it was common case that the premises was, if not the best, certainly one of the best in the vicinity, the Tribunal has had a careful look at the comparisons offered by Mr. Deegan. The Tribunal notes that most of the comparisons except the shop and supermarket known as Lot 19/19A consist of premises sometimes of half the

size of the subject. While the rental values of supermarket premises never seem to reach high levels, nevertheless the Tribunal must be conscious of the necessity to ensure equity as between the rateable valuation of the subject premises and Lot 19/19A. The Tribunal must be mindful that the amalgamation of the valuations and premises together with the occupation and adjustment of the premises to suit the appellant's trade apart from any good will established probably has added to the net annual value leading the Tribunal to a position where some departure might be made from passing rent. However, the valuation of Lot 19/19A would seem on grounds of equity to present an upward limit to that process.

Having regard to the foregoing considerations the Tribunal determines the valuation of the subject at £95.