

Appeal No. VA95/1/077

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

Patricia McAllister

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Showrooms at Map Ref: 16 Duke Street, Urban District of Drogheda, Co. Louth
Quantum - Parking restrictions

B E F O R E

Fred Devlin

FRICS.ACI Arb. (Acting Chairman)

Brid Mimmagh

Solicitor

Patrick Riney

FRICS.MIAVI

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 1ST DAY OF MAY, 1996

By Notice of Appeal dated the 26th day of April, 1995 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 "I wish to be relisted for valuation due to change in circumstances - removal of parking at all on Duke Street - no loading or unloading bays provided - despite repeated requests for same - I would be unable to continue as an auction rooms without some loading facility".

The Property:

The property, a showroom of some 1,549 square feet with ancillary storage to the rear of 645 square feet, is a single storey masonry wall and corrugated iron roofed building on Duke Street, Drogheda, Co. Louth. The premises has good frontage to Duke Street of approximately 40 feet and has a large display window. The entire property is old but in fair condition.

Duke Street is a narrow one way street connecting West Street to Fair Street. It has been recently re-paved and presents a pleasant aspect. The re-paving and upgrading of the street has restricted the width of the carriageway.

Valuation History:

The property, No. 16 Duke Street, Drogheda was first valued in 1932 at a rateable valuation of £16 . In 1947 following improvements the valuation was increased to £23. In 1993 the valuation was again increased to £33. This was appealed to the Commissioner of Valuation and was reduced at First Appeal to £30. It is against this determination of the Commissioner of Valuation that an appeal now lies to the Tribunal.

Written Submissions:

A written submission was received on the 6th February, 1996 from Ms. Patricia McAllister, appellant. In the written submission, Ms. McAllister set out details of the property and its location.

Ms. McAllister stated that in her opinion a nominal rateable valuation of £5 should be set on the property due to the absence of loading/unloading bays and the erection of steel bollards along each footpath to prevent parking. Ms. McAllister also stated that loading bays had been provided for Kalemount Furniture, 6 - 9, Duke Street, Drogheda but not for 16, Duke Street. Ms. McAllister said that the absence of any loading bays placed a huge burden, in financial terms, on the current use of the building and that it had made trading almost impossible.

In conclusion, Ms. McAllister said that 16, Duke Street was a unique property and, as such, had few if any comparables. Ms. McAllister proposed that a nominal valuation should suffice.

A written submission was received on the 30th January, 1996 from Mr. Malachy Oakes, District Valuer with 20 years experience in the Valuation Office on behalf of the respondent.

In his written submission, Mr. Oakes set out details of the property and its valuation history as set out above. Commenting on the appellant's grounds of appeal, Mr. Oakes said that he had had regard to the location and state of repair of the property and how the premises compared with recently revised properties of a similar nature.

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

"Showrooms/Shop	800 ft ² }				
	749 ft ² }	@	£2.50 ft ²	=	3,872.00
Stores	645 ft ²	@	£1.50 ft ²	=	<u>967.50</u>
					4,839.50
	R.V.	@	.63%	=	£30.40
			Say	=	£30.00"

Mr. Oakes set out details of three comparisons as follows:-

- (1) **Occupier:** McAllister Limited
Lot: 88, West Street, Drogheda, Co. Louth
Description: Shops and Stores
R.V.: £50

Shop (Front)	248 ft ² @	£18.00	4404
Shop (Mid)	195 ft ² @	£10.00	1950
Shop (rear)	108 ft ² @	£ 5.00	540
Store	54 ft ² @	£ 2.00	108
First and Second Floor Shops say			<u>1000</u>
			8062
	R.V.	.63%	= £50

Better location on premier street in Drogheda. Shops devalue at £12.60 ft² overall.

- (2) **Occupier:** Kalemount Furniture
Lot: 6.7.8g Duke Street, Drogheda, Co. Louth
Description: Store
R.V.: £17.00

Furniture Stores	1075 ft ² @	£2.50	= 2687
	R.V. @	.63%	= £16.90
		Say	= £17.00

Furniture store in old school building and no street frontage.

- (3) **Occupier:** Julien Blinds
Lot: 6.7.8b (first floor) Duke Street, Drogheda, Co. Louth
Description: Showroom and Workshop
R.V.: £20

First Floor showroom/workshop	1262 ft ²	@	£2.50	=	3155
	R.V.	@	.63%	=	19.80
			Say	=	£20.

First floor showroom and workshop in old school building and no street frontage.

Oral Hearing:

At the oral hearing held in Dublin on 9th day of February, 1996 the appellant appeared on her own behalf and the respondent was represented by Mr. Malachy Oakes, a District Valuer in the Valuation Office.

Prior to the oral hearing the appellant made a written submission which was adopted by her as her evidence in chief given under oath. In further submission the appellant said that at the date of the revising valuer's inspection in late 1993, Duke Street was subject to a two hour parking restriction. However, following the re-paving of the street parking is now prohibited and this ban is reinforced by the erection of steel bollards along the edge of the pavement. The introduction of these restrictions she said has had an adverse affect on her business and loading and unloading was no longer possible outside her premises due to the risk of causing traffic congestion. Despite a number of requests the Corporation had refused to provide her with a key to remove the bollards outside her shop in order to solve this problem.

Ms. McAllister referred to the comparisons contained in Mr. Oakes' submission and said that in her opinion they were not relevant or helpful.

In response to questions from Mr. Oakes, Ms. McAllister said that the subject property, in its present state, was unlettable and local auctioneers had refused to "place them on their books". The property was in very poor repair and suitable only for their present use, that is, the sale of second hand furniture and this was now in jeopardy due to the parking restrictions. In this regard she has made a number of representations to officials of the Corporation but found their attitude to her problems to be unsympathetic.

Mr. Oakes on taking the oath adopted his written submission as his evidence in chief.

In a further oral submission he said that when he had inspected the subject property in November, 1994 the resurfacing works were at an early stage and he had valued the premises as it was at that time.

When asked by the Tribunal if he would have arrived at a different valuation if the circumstances at that time were as now described by the appellant, Mr. Oakes requested a sort adjournment in order to consider his response and this was granted.

On the resumption of the oral hearing Mr. Oakes said that having carefully considered the issues raised by Ms. McAllister he would consider a reduction of 25% to be appropriate and hence the answer to the question posed by the Tribunal was £23.

Determination:

The Tribunal has carefully examined all the evidence submitted by the parties and would like to commend Ms. McAllister and Mr. Oakes for their presentations.

Ms. McAllister put forward her arguments in a very cogent manner and very forcibly made her case. Mr. Oakes likewise acquitted himself very well and having heard Ms. McAllister's evidence he conceded that a substantial reduction was indeed warranted. His willingness to reconsider his valuation in the light of Ms. McAllister's representations was most helpful to the Tribunal and reflects well on his own professional integrity and that of the Valuation Office.

The Tribunal notes that in her written submission Ms. McAllister considered the proper rateable valuation of the hereditament to be £23. However, in the light of the restrictions imposed on her ability to trade following the resurfacing works and more particularly the fact that the Corporation would not provide her with a key to remove the bollards outside her premises for loading and unloading purposes she considered a nominal valuation of £5 to be appropriate until such times as her grievances were addressed.

Under the provisions of the Valuation Acts the Tribunal is charged with determining the net annual value subject to the rule of '*rebus sic stantibus*'. Having regard to the above and all the evidence adduced the Tribunal finds that Ms. McAllister's contention for a rateable valuation of £5 cannot be supported by the evidence. The reduced assessment of £23 put

forward by Mr. Oakes in the Tribunal's opinion is fair and reasonable and adequately takes into account the parking restrictions that now apply to Duke Street as they affect the subject property.

Accordingly, therefore the Tribunal determines the rateable valuation to be £23.