

Appeal No. VA95/5/027

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

Chris Adderley t/a The Weaver Take-Away

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop at Map Ref: 14a, Weavers Square, Ward: Merchants Quay C, County Borough of Dublin

Quantum - Passing rent, comparisons

B E F O R E

Mary Devins

Solicitor (Acting Chairman)

Brid Mimmagh

Solicitor

Patrick Riney

FRICS.MIAVI

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 23RD DAY OF MAY, 1996

By Notice of Appeal dated the 19th October, 1995 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £25 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that "the rateable value on the above premises is incorrect, excessive and bad in law".

The Property:

The property consists of a take-away shop of 195 square feet with preparation area to the rear of 142 square feet and a storage area to the rear, which measures 158 square feet. The premises is in good repair, however, there is a problem associated with a wooden support beam over the shop front.

The shop is located in Weaver Square between Cork Street and the South Circular Road. The area to the south towards South Circular Road is densely populated. There are three blocks of local authority flats nearby. There is adequate parking in Weavers Square.

Valuation History:

The property was first revised in 1974 when no change was made to the old valuation of £16. It was listed for revision by Dublin Corporation in 1993 and the valuation was increased to £28, with two additional valuations on the first and second floors of £8. An appeal was lodged with the Commissioner of Valuation at First Appeal stage and the rateable valuation was reduced to £25. It is against this decision of the Commissioner of Valuation that an appeal now lies to the Tribunal.

Written Submissions:

A written submission was received on the 3rd April, 1996 from Mr. Brian O'Flynn, District Valuer with 20 years experience in the Valuation Office on behalf of the respondent. In his written submission, Mr. O'Flynn set out the description of the subject property and its valuation history as summarised above.

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

"(Front)	Shop:	195 sq.ft.	@	£13.00		
(Mid)	Preparation Area:	142 sq.ft.	@	£6.50	=	£3,971
(Rear)	Stores Area:	158 sq.ft.	@	£3.25		
	NAV:	£3,971	@	0.63%	=	£25.00RV

OR

Held on a 21 year lease with 3 year reviews FRI.

Rent at June 1985	£4,300	
Rent at June 1988	£4,300	No Review
Rent at June 1991	£5,200	

Average rental growth over 6 years £150.00
 Estimated NAV at November, 1988: £4,750 @ 0.63% = £30.00RV

OR

Assume no rental growth from June 1985 to November 1988.
 Estimated NAV: £4,300 @ 0.63% = £27.00RV"

Oral Hearing:

At the oral hearing which took place on the 1st day of May, 1996 the appellant appeared on his own behalf. Mr. Brian O'Flynn appeared on behalf of the respondent. Mr. Adderley gave evidence that the area around Weavers Square generally was deteriorating fast. He said that the school next door to his premises had been closed because of dry rot, that a nearby licensed premises was due to close shortly and that a Drug Treatment Centre was about to open.

Mr. Adderley said that there were certain serious problems in relation to the structure of the premises, particularly in relation to the shop front and window and the wooden support beam over the shop front. He said that he was in dispute with the Landlady in relation to these matters and that litigation was pending in relation to same.

Mr. O'Flynn referred to his written submission and pointed out that the best evidence of valuation was passing rent and that he had actually assessed the valuation at a lower level because of the undoubted problems associated with the area in which the property is located.

In reply to questions from the Tribunal in relation to comparative evidence Mr. O'Flynn, with the agreement of the appellant referred to comparisons in Dean Street, which did not form part of his written submission.

Determination:

The Tribunal accepts that the best evidence of net annual value is of course passing rent. In certain circumstances however a rent passing may well be out of line with that of comparable properties in the same area.

The Tribunal notes that the respondent has been unable to produce comparative evidence in the area and notes too that the comparable properties in nearby Dean Street devalue at

approximately £12 per square foot in relation to the shop area along side the £13 assessed on the shop area of the subject.

The Tribunal is satisfied that Dean Street is a superior location to Weavers Square.

The Tribunal notes also the evidence of the appellant in relation to the closure of the nearby school which presumably will have a detrimental affect on the trade of the subject and it accepts Mr. Adderley's evidence in relation to the structural defects of the building.

In the circumstances and in the light of all of the evidence adduced the Tribunal determines the correct rateable valuation of the subject property to be £23.