

Appeal No. VA96/3/040

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

**John Walsh**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Shop, Stores and Yard at Map Ref: 18, 19 to 29b, Hardmans Gardens (East Side), Ward:  
Fair Gate, UD: Drogheda, Co. Louth  
Quantum - Passing rent

**B E F O R E**

**Fred Devlin - FRICS.ACI Arb.**

**Deputy Chairman**

**Patrick Riney - FRICS.FSCS.MIAVI**

**Member**

**Barry Smyth - FRICS.FSCS**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 18TH DAY OF FEBRUARY, 1997**

By Notice of Appeal dated the 26th day of July 1996 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £165 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that:-

"The RV is excessive and inequitable having regard to the tone of the list and the nature of the property".

**Oral Hearing & Written Submissions:**

The appeal proceeded by way of an oral hearing which took place on the 29th day of January 1997 at the Valuation Tribunal Offices. The appellant was represented by Mr. Conor O'Cleirigh, ARICS ASCS MIAVI, Principal Conor O'Cleirigh, Chartered Valuation Surveyors. The respondent was represented by Mr. Malachy Oakes, a District Valuer with over 20 years experience in the Valuation Office. Mr. John Walsh was also in attendance.

Having taken the oath, each valuer adopted as their evidence in chief their respective written submissions which had been exchanged by them and submitted to the Tribunal.

***Agreed Facts***

The valuers were agreed on the location, description and floor area of the subject premises. The areas are set out below.

*Ground floor*

Shop            262.5 sq.m. (2,826 sq.ft.)  
Stores           52.9/53.7 sq.m. (569/578 sq.ft.)

*First floor*

Stores/Office 47.4 sq.m. (510 sq.ft.)

The property is held on lease dated the 9/10/87 for a term of 35 years from the 1/6/86 at an initial rent up to the 31/10/86 at £17,000 p.a. from 1/11/86 to the subsequent review on the 1/6/91 at £19,750. The rent was reviewed on the 1/6/91 to £23,000 p.a. The review for June 1996 is still outstanding. The tenant is responsible for rates, repairs and insurance. The present lessee paid a premium of £50,000 in or about November 1988 for the leasehold interest.

At the time the lease was granted the premises comprised:-

*Ground Floor*

Shop @        361.6 sq.m. (1,739 sq.ft.)  
Stores @       41.8 sq.m. (450 sq.ft.)

*First Floor*

Stores @       44.4 sq.m. (478 sq.ft.)

The premises was extended by the tenant.

In the 1992/1 revision following extension the rateable valuation was fixed at £130 and at 1992/1 first appeal the rateable valuation was agreed at £110. In 1995/4 revision, following renovations the valuation was fixed at £165. No change was made at 1995/4 first appeal.

**Mr. O'Cleirigh** stated that there was competition in the food sector in the centre of Drogheda and that the catchment area for the subject premises was limited to the surrounding residential estates. He suggested that the rent reflected fixtures, fittings and goodwill. He gave two comparisons of larger supermarket premises in the centre of Drogheda and one supermarket of 234.6 sq.m. (2,525 sq.ft.) in Cabinteely, Co. Dublin.

Mr. O'Cleirigh estimated the net annual value at £14,750 calculated on the basis of the retail space at £48.40 psm (£4.50 psf), the ground floor stores @ £21.50 psm (£2 psf) and the first floor stores/office at £18.80 psm (£1.75 psf). This estimate of NAV derived a rateable valuation of £93.

**Mr. Oakes** stated that the premises, although in a secondary position was in a densely populated area close to schools and with the hospital not far away. He assessed the NAV at £26,414 on the basis of £86.10 psm (£8 psf) on the retail space, £43 psm (£4 psf) on the ground floor stores and £32.30 psm (£3 psf) on the first floor. This RV derives at 0.63% to £166, say £165.

### **Determination:**

In this case there is definite evidence of rent at the relevant date. The premises was let initially at £17,000 p.a. and then as provided by the lease from 1/11/86 to 1/6/91 £19,750 p.a. It was then reviewed in 1991 at £23,000. This was a letting between a willing landlord and a willing tenant. This letting was also for the premises in their original condition and takes no account of subsequent extensions or improvements carried out by the tenant. There did not appear to the Tribunal to be any evidence that the rent was inclusive of goodwill or fixtures and fittings and the clause in the lease that refers to landlord's fixtures and fittings is in the standard format. It must also be borne in mind that a tenant subsequently paid £50,000 premium which presumably was for goodwill, fixtures and fittings and would be unlikely to have been paid if these matters were also being rentalised.

Having regard to the foregoing and the evidence adduced by the parties, the Tribunal determines the rateable valuation at £142 calculated as follows:-

|                                   |             |   |                  |   |                   |
|-----------------------------------|-------------|---|------------------|---|-------------------|
| Retail Space                      | 262.5 sq.m. | @ | £75.30 psm       | = | £19,766.25        |
| Ground floor Stores               | 52.9 sq.m.  | @ | £32.30 psm       | = | £ 1,708.67        |
| First Floor Stores/Office         | 47.5 sq.m.  | @ | £21.50 psm       | = | <u>£ 1,021.25</u> |
|                                   |             |   | Total            |   | <u>£22,496.17</u> |
| Say £22,500 @ 0.63% = RV £141.75. |             |   | <b>Say £142.</b> |   |                   |