

Appeal No. VA96/6/013

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

Thomas & Suzanne Moran

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop and Restaurant at Map Reference 36a, Gladstone Street, UD: Clonmel East Urban,
Co. Tipperary.

B E F O R E

Liam McKechnie - Senior Counsel

Chairman

Barry Smyth - FRICS.FSCS

Deputy Chairman

Con Guiney - Barrister at Law

Deputy Chairman

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 15TH DAY OF SEPTEMBER, 2000

By Notice of Appeal dated the 6th day of December 1996, the appellants appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £105 on the above described hereditament.

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

- "1. The valuation is excessive and inequitable.
2. The valuation is bad in law".

This appeal proceeded by way of an oral hearing, held in Clonmel on the 9th day of February 1998 at which the appellants were represented by Ms. Sheelagh O’Buachalla of GVA Donal O’Buachalla & Company. The Commissioner was represented by the appeal valuer, Mr. Denis Maher, a District Valuer with over 20 years experience in the Valuation Office. In accordance with practice, the parties, prior to the commencement of the hearing, had exchanged their précis of evidence. Having taken the oath both valuers adopted their said respective précis as being and as constituting their evidence in chief. Both were cross-examined. Submissions were made and judgment was reserved.

From the evidence so tendered and adduced the following facts, largely not in dispute, emerged as being those both relevant and material to the issues arising on this appeal:

Location:

The subject property is located on the East side of Gladstone Street about 45 metres north of its junction with Market Street. It is adjacent to a new entrance from Gladstone Street to Market Place Shopping Development. This part of Gladstone Street, which overall is one of the main shopping areas in Clonmel, has improved of late with increased pedestrian traffic due to this new market place development. The subject premises comprises a former post office, being a victorian period style structure, with brick-faced front elevation and slated roof behind decorative brick parapet. Its front elevation incorporates three arched opes one of which forms the entrance door. It is a two storey street side property with a mezzanine floor. Its frontage to Gladstone Street is about 12 metres as is its depth. It is now, as to the ground floor and first floor front areas thereof, used as a bookshop. It has offices, kitchen and stores at the first floor towards the rear. There is a small restaurant coffee shop at the mezzanine level overhead, which is accessed from the rear of the first floor only.

Accommodation:

The accommodation, which is agreed, is as follows:

Ground Floor

Shop	960 sq. ft.
Store	180 sq. ft.

First Floor

Shop	625 sq. ft.
Kitchen	73 sq. ft.
Storage/Offices	333 sq. ft.
Mezzanine level – Restaurant/Coffee shop	550 sq. ft.
Total	2,720 sq. ft.

Valuation History:

In 1984 the entire of this property had an R.V. of £50 placed thereon. In 1989/3, the ground floor shop had an R.V. of £70 placed thereon with £10 on the first floor making a total of £80 R.V. In November 1995 the entirety was revised and the R.V. increased to £105. As a result the appellants appealed to the Commissioner of Valuation. The results of first appeal issued on the 8 November 1996 and showed no change. Hence the Notice of Appeal to this Tribunal.

Tenure:

This property is held subject to a lease for a term of 35 years commencing either from June or July 1995. It has five-year reviews and contains a break-clause at any time during the first five-year period. It is a full repairing and insuring lease. The initial rent, for year one, was £18,000, which on year 2 rose to £21,000. Years 3 to 5 had a rent of £24,000 according to Ms. O’Buachalla. Over the five-year period therefore their figure gives an average of £22,200 per annum. Mr. Maher felt that at year 5 the reserved rent was £25,000.

Services:

All main services are attached.

Issues:

When this appeal was taken both to first appeal level and to this Tribunal there were two issues between the parties. Firstly, the appellant contended that the use of the reducing factor of 0.5% was unjustified and instead the factor of 0.3% should be applied. The second issue was one of quantum. Arising from the judgment of this Tribunal in the case of Telecom Eireann – VA96/6/012 it is clear that in our opinion the percentage factor advanced on behalf of the Commissioner is the correct and appropriate one for use in that and in this appeal. Accordingly for the reasons therein stated we propose in this appeal to follow and apply the ratio as given in the Telecom Case. Consequently, that leaves the question of quantum as being the only remaining issue in this appeal.

Commissioner's Case

On behalf of the Commissioner of Valuation, the appeal valuer suggests that the correct rate psf appropriate to each section of this hereditament should be as follows:

Ground Floor	Shop	960 sq. ft. @ £13.00	£12,480
	Store	180 sq. ft. @ £ 4.00	£ 720
First Floor	Shop	625 sq. ft. @ £ 6.00	£ 3,750
	Offices/Stores/kn	405 sq. ft. @ £ 3.00	£ 1,215
Mezzanine	Restaurant	550 sq. ft. @ £ 5.00	<u>£ 2,750</u>
			£20,915

Hence the R.V. of £105.

In the alternative he also gave evidence that in his opinion the ground floor sub-divides into two natural zones with Zone A extending to a depth of about 5.4 metres which though somewhat less than the normal 6 metres is nonetheless an acceptable breakdown. Adopting this zoning method it is suggested that on Zone A, which amounts to 591 sq. ft., a slight majority of the entire ground floor area, a rate of £16.00psf could be placed thereon with half that on the balance which is approximately 549 sq. ft. No change is suggested to the other areas. Herein, in tabular form we set forth the entirety of the areas and rates when using this method.

Ground Floor	Shop and Stores – Zone A	591 sq. ft. @ £16.00	£ 9,456
	Zone B	549 sq. ft. @ £ 8.00	£ 4,392
First Floor	Shop	625 sq. ft. @ £ 6.00	£ 3,750
	Offices/Stores	405 sq. ft. @ £ 3.00	£ 1,215
Mezzanine	Restaurant	550 sq. ft. @ £ 5.00	<u>£ 2,750</u>
			£21,563

In support of this valuation Mr. Maher refers to the passing rent as contained in the lease and suggests that though the initial rent is higher than his suggested N.A.V. nonetheless the structure of the rent provides a foundation upon which the N.A.V. of £21,000 can be justified. In addition he has referred us to seven comparisons which for ease of reference are listed in **Appendix One** to this judgment.

The Appellant's Case

The rating consultant takes issue with the R.V. and thus the N.A.V. She makes the point firstly that the N.A.V. of £21,000 as of November 1988 exceeds the 1995 rent, secondly it also exceeds the 1989 revision of £16,000 assuming that 0.5% was applied, thirdly market conditions were undoubtedly much less buoyant in November 1988 than they were at revision date or indeed at hearing date and finally, the population of the immediate environs showed no significant increase

between the 1991 and the 1996 Census. Against this background she suggests the following rates:

	<i>Sq. ft.</i>	<i>£</i>	<i>£</i>
Ground Floor			
Shop (including store 180 sq. ft.)	1,140 @	10.00 =	11,400
1st Floor			
Shop	625 @	4.00 =	2,500
Stores	405 @	1.00 =	405
Mezzanine	550 @	3.00 =	<u>1,650</u>
		N.A.V.=	£15,955
		Say =	£16,000

No comparisons were submitted in support of this N.A.V. of £16,000.

Determination

As can be seen from the foregoing, the Appeal Valuer has suggested the zoning method as an alternative to the primary basis upon which he calculates the N.A.V. Apart altogether from the areas not perhaps lending themselves naturally to a zoning method we would be of the view that such a method for the location in question, would not be reflective of the market or indeed our opinion as to what would be the most appropriate way to calculate an N.A.V. for the subject property. Accordingly, we would not favour adopting this method.

From the comparative evidence as given we are satisfied that apart from minor variations, the figures and rates as submitted by Mr. Maher are correct and appropriate and are underpinned by the evidence so advanced. We believe that none of these comparisons could justify a rate of £10psf on the retail area on the ground floor. Accordingly we propose to allocate to each segment of this hereditament the following rates:

		Sq. ft.		£	£
Ground Floor	Shop	1,140	@	£12.00 =	13,680
	Shop	625	@	£ 5.00 =	3,125
	Stores	405	@	£ 3.00 =	1,215
	Mezzanine	550	@	£ 4.00 =	<u>2,200</u>
					20,220 N.A.V.
				@ 0.5% R.V. =	£101.10
				Say =	£100