

Appeal No. VA97/4/032

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

Camden Crafts

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop at Map Ref: 23 (ground floor), Townland: Camden Street Lower, Ward: St. Kevin's,
County Borough of Dublin
Quantum - Passing rent

B E F O R E

Con Guiney - Barrister at Law

Deputy Chairman

Barry Smyth - FRICS.FSCS

Member

Finian Brannigan - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 7TH DAY OF JULY, 1999

By Notice of Appeal dated the 27th day of July 1997 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £50 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that "the rateable valuation is excessive having regard to the nature and size of the property, its particular location on Camden Street Lower together with the net annual rent payable by the tenant and market conditions in the area as at 1988".

The appeal proceeded by way of an oral hearing which took place on the 20th day of February 1998 in the Valuation Tribunal Offices, Dublin. The appellant was represented by Conor O’Cleirigh, MIAVI ARICS ASCS of Conor O’Cleirigh & Company, Chartered Valuation Surveyors and the respondent was represented by Terence Dineen, B.Agr.Sc., District Valuer in the Valuation Office with 22 years experience in rating. Having taken the oath each Valuer adopted as his evidence in chief his written submission which had previously been exchanged with the other Valuer and submitted to the Tribunal.

Material Facts Agreed or Found by the Tribunal

Valuation History

In 1974 the ground floor was first valued separately from the upper floors at rateable valuation £65. In 1992 under the NAV system it was revised and reduced to RV £50. In 1995 it was listed by the owner/occupier for revision on the grounds that the valuation was excessive. The revised valuation was issued unchanged and there was no change on first appeal and the figure of £50 is the subject of the current appeal to the Tribunal.

Situation

The property is situated on the east side of Camden Street, a secondary retail area with ground floor shops and residential and office accommodation on the upper floors. In addition to the shops there are street traders selling fruit and vegetables on the pavement directly in front of this parade of shops.

Premises

The subject property comprises the ground floor only, of a mid-terrace three storey building with retail and workshop accommodation on the ground floor and access to the upper floors being from the rear ground floor workshop area.

Accommodation

Retail area including arcade type entrance – 36.7 sq.m. (395 sq.ft.)

Rear workshop – 31.6 sq.m. (340 sq.ft.)

Toilet with w.c. and w.h.b.

Lease

The entire building is held by the present occupant on a four year nine month lease from April 1996 at £9,600 p.a.. This lease has not be executed. Previously the same tenant held the entire premises on lease dated 17th August 1993 for a term of 2 years 9 months from the 17th August 1993 at a rent of £8,320 p.a. exclusive.

The Appellant's Case

Mr. O'Cleirigh in his evidence stated *inter alia*:

1. Camden Street is a secondary retailing area with a high concentration of small retailers and no major anchor tenants or national retail names. The subject premises is disadvantaged by the street traders operating directly outside the shop which restricts pedestrian flow and visibility of frontage to passing traffic.
2. That the population in the inner city area had declined in the period 1981 - 1996.
3. That the property has frontage of 12 ft to Camden Street Lower and that the shop front is old fashioned providing a restricted retail presence to Camden Street.
4. He assessed the NAV and RV as follows:-

Front Lobby	40 sq.ft. @ £ 8 psf = £ 320
Front Shop	355 sq.ft. @ £10 psf = £3,550
Rear Workshop	340 sq.ft. @ £ 4 psf = <u>£1,700</u>
NAV	<u>£5,570</u>

Applying a fraction of 0.63% gives £35.09. Say £35.
5. Mr. O'Cleirigh provided four comparisons, a summary of which are as follows:-

Address	Floor Area	Rent
23 Lower Camden Street	Porch 40 sq.ft. Shop 355 sq.ft.	£12.00 sq.ft. 1993 £13.88 sq.ft. 1996
10 Lower Camden Street	Shop 546 sq.ft.	On basis of N.A.V. £9 sq.ft. Passing rent 1990 £9 sq.ft.
7A Lower Camden Street	Shop 532 sq.ft.	On basis of N.A.V. £11.90 sq.ft. Rent 1988 £8.34 sq.ft.
College Court Kevin Street Lower	Shop 689 sq.ft.	1998 rent £15.24 sq.ft.

In cross examination by Mr. Dineen, Mr. O’Cleirigh stated; that the pattern of rents was £10/£12 psf in 1988 on the shop area but not on the entire premises; that the 1996 rent review on 7A Lr. Camden Street had not yet been agreed; that the rateable valuation of £40 on 10 Camden Street had not been appealed; that for rating purposes £19.50 psf is established as Zone A rent, but in his opinion is not sufficient information in itself and should not extend through to the rear workshop as in Mr. Dineen’s valuation.

The Respondent’s Case

Mr. Dineen, in his evidence stated inter alia:-

1. Camden Street is a major traffic artery with two way flows, is pleasantly wide and bright and there is parking on both sides of the street.
2. The shop is above average quality for the street with a recessed front door increasing the display area for browsers. The shop frontage is 13.8 ft. The property has a slight sewerage problem with blocking of pipes located below the rear workshop area.

He assessed the NAV as follows:-

Ground floor Zone A	272 sq.ft. @ £19 psf
Zone B	272 sq.ft. @ £ 9.50 psf
Zone C	184 sq.ft. @ £4.75 psf

Giving £8,626, Say £8,000 NAV at 0.63%. £50.40. Say £50.

As his basis of valuation for comparative purposes, he relied on a 1992 revaluation of premises on Camden Street. He provided a list of rental evidence in relation to premises (a) the rateable valuations of which have not appealed and (b) the rateable valuations of which have appealed.

(a) Premises not appealed

No. 25	small discount shop	385 sq.ft. @ £20.77
No. 29	discount self service	888 sq.ft. @ £14.64
No. 75	optician	205 sq.ft. @ £20.20
No. 84	travel agent	355 sq.ft. @ £16.90
No. 65	education centre	980 sq.ft. @ £ 7.14
No. 64	educational supplies	406 sq.ft. @ £21.70
No. 63	newsagent	738 sq.ft. @ £11.27

(b) Premises appealed

Street No.	Rent	NAV	Zone A Level	RV
21.21A	9,400 (1989) apportionment	9,400	19.5	£75 reduced to £60
24	16,000 (10/92)	14,271	19.5	£80 unchanged
26	18,200 (1985)	13,850	19.5	£100 reduced to £85
27	Freehold		19.5	£120 reduced to £78
28	14,000 (4/89)	13,664	19.5	£90 reduced to £85
36	Freehold		19.5	£60 reduced to £45
56	11,000 (7/88)	11,000	19.0	£100 reduced to £70
60			19.0	£85 reduced to £80
68	13,750 (5/91)	12,400	15.5	£140 reduced to £78
76	7,280 (11/92)	6,928	16.0	£80 reduced to £45

He also relied on a 1993 revision in which he had been a Revising Valuer and results of that are set out below:

No.	Rent £	Year	Rent/Sq. Ft. Zone A	Size Sq.Ft.
7a	1,500	1992	15.00	99
7	10,000	11/89	18.50	1,178
9a	9,000	1994	15.30	803
12	8,000	1988/9	14.70	948
13a	11,200	1995	44.80	250
15a	9,000	10/92	18.50	740
19b	4,368	mid 1992	22.70	215
20a	5,600	Expired 90/91	15.80	443
91	7,900	1991	20.00	450

In cross examination by Mr. O’Cleirigh, Mr. Dineen stated that

1. there are no major stores or retail names in the location
2. the street traders immediately outside the premises interfere with its visibility and accessibility but that they bring extra customers to the location
3. the net frontage of the premises is 12 ft and not 13ft 8in as in his calculations
4. there is a wall between the retail area and the workshop to the rear.

Determination

The Tribunal has frequently stated that where a passing rent is available it should be the primary evidence in assessing NAV and thus RV. In the subject case there is a passing rent in August 1993 of £8,320 for the entire property including upper floors not covered in the RV of £50 that is under appeal. Despite this passing rent of £8,320 for a considerably larger area than is being dealt with the respondents have estimated an NAV of £8,000 as at 1988 on the relevant area. Mr. Dineen provided subsequent to his précis an analysis of rents in comparisons and on the subject premises and deducting his estimate of rental value for the upper floors came to a rental

value of £6,640 as at 1993 for the ground floor of these premises. Rather than making any effort to adjust this back to 1988 however, the figure was actually increased to £8,000 NAV. Mr. Dineen's zoning of the ground floor is also incorrect. Firstly he uses the gross external width of the premises and not the net internal width as per the Society of Chartered Surveyors guidance notes on this matter and this produces distorted figures. In addition, he carries the zoning through the rear wall of the property into the rear workshop area and this is totally incorrect.

Taking the above evidence and submissions into account the Tribunal determines the rateable valuation as follows:-

Proportion of rent attributable to the ground floor as at 1993 as calculated by Mr. Dineen £6,640. No evidence was offered as to how this figure might be adjusted back to 1988 and the Tribunal is not prepared to make a proposal on the matter due to the lack of evidence. Therefore, applying the fraction of 0.63% to £6,640 NAV gives an RV of £41.83.

Alternatively:

Mr. O'Cleirigh in his cross-examination indicated a rental level of £10 - £12 psf as at 1988. Applying the higher of these figures to the entire ground floor retail area gives the following valuation.

Ground floor retail space	395 sq.ft. @ £12 psf = £4,740
Rear workshop	340 sq.ft. @ £ 5 psf = <u>£1,700</u>
	<u>£6,440</u>

NAV @ 0.63% = £40.57 RV.

The Tribunal therefore determines the rateable valuation in this case at £41.