

Appeal No. VA98/2/041

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

**Dermot McKinney t/a Radar Stores Ltd.**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Shop at Lot No. 5 Francis Street, Ennis, Co. Clare  
Quantum - Passing rent, Condition

**B E F O R E**

**Con Guiney - Barrister at Law**

**Deputy Chairman**

**Barry Smyth - FRICS.FSCS**

**Member**

**George McDonnell - F.C.A.**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 10TH DAY OF JUNE, 1999**

By Notice of Appeal dated the 1st day of May 1998 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £27.00 on the above described hereditament.

The Grounds of Appeal as set out in the Notice of Appeal are that "after inspecting the list of rates for my area I notice that the new rate is in line with the charges of the main street, Abbey Street.

Not only am I not on Abbey Street but the passing trade I would enjoy is about 1/3 of that on the said street.

My premises is commercially valued at less than half of that as on Abbey Street. I know this because it was valued two weeks ago for a banking institution.

My turnover would be about 1/3 of that on Abbey Street.

In my section of the street in Francis Street, known as the Causeway, I am the only full time retail unit on the street.

Premises surrounding mine include two offices, one insurance brokers, one photographer, none of which open on a Saturday the busy day up town. One derelict building, one house, one music shop, the back service entrance to a hotel and one pub, none of which add to the attraction to the street as for aiding my turnover.

I have no problem paying a fair share but this must take the geography of the place into consideration. My premises is about 100 years old or more and is in constant need of repair this takes considerable time and money and we are not talking about serious improvements here just repairs and cosmetic care in order to try to attract customers, maintain a standard and try to hold my turnover in a very competitive market.

When I was speaking with your Patrick Conroy he led me to believe that the valuation would not be as high as £27.00 after he viewed the shop”

The appeal proceeded by way of an oral hearing that took place on the 4th day of June 1999 in the Council Chamber, Limerick Corporation. The appellant, Mr. Dermot McKinney represented himself. Mr. Patrick Conroy, a District Valuer with over 25 years experience in the Valuation Office appeared on behalf of the Commissioner of Valuation. In accordance with practice and as required by the rules of this Tribunal the parties had prior to commencement of the hearing exchanged précis of evidence and submitted same to us. Having taken the oath Mr McKinney and Mr Conroy adopted their written submissions as their evidence in chief. Both appellant and respondent handed in photographs of the subject premises and comparisons.

From the evidence so tendered the following facts emerged as being relevant to this appeal.

# **1. The Property**

The property comprises a two storey lock-up retail premises on Frances Street, Ennis. The premises are old and the accommodation is described as ‘fair’. There is restricted headroom height on the ground floor (2.2 metres). The premises are located approximately 30 metres from the junction with Abbey Street and adjoining the entrance to the local authority carpark. Francis Street is a secondary shopping street linking the Quinnsworth Shopping Centre with Abbey Street, one of the prime retail

streets in Ennis. Other uses of Francis Street comprise a mixture of residential, retail and professional use.

### ***Areas***

The agreed areas of the premises are as follows:

Ground Floor retail 49.5 m<sup>2</sup> (532 sq.ft.)  
Stores 8 m<sup>2</sup> {86 sq.ft.)

## **2. Valuation History**

Premises were last valued in 1978 when there were three separate lots as follows;

Lot No. 8	House and Yard	RV £4.
Lot No. In 8	Offices	RV £7.50
Lot No. In 8	Shop	RV £10.00

On revision in 1997 the above lots were amalgamated and an RV of £27.00 was determined. The description was changed to 'shop'. No change was made to the valuation following first appeal.

### **The Appellant's case**

**Mr McKinney** in his evidence said that the premises offered as comparisons by the Respondent were all refurbished and that in addition a number of the units on the street did not open on Saturday or at Christmas. He said that there was a derelict unit beside him and that in all the trading on the street was very poor. He said from observation he concluded that his level of trade was about one third that on Abbey Street. He said that there was rising damp in his premises and that he could not attach shelves to the walls. As a result of the state of his premises, the maintenance costs were very high.

Under cross examination he agreed that he had added extra areas to that previously held by him on purchasing the freehold in 1994 which had the result of increasing his rateable valuation. He further stated, in response to a question from the Tribunal, that the rent of £5,940, which he had previously paid, had referred to approximately half the premises.

### **The Respondent's case**

Mr Conroy in his evidence made the following points. He said that when Mr McKinney took over the entire premises his valuation, even without a revision would have increased due to the amalgamation of the old valuations totalling £21.50. He said that in reality the valuation was only increased by £5.50 and that the old valuation had not been carried out on an NAV basis. He said that the rate per square foot applied to the subject at £9.00 reflected the disadvantages of the premises in terms of condition and location. He added that the premises was only a short distance from the main shopping street.

He referred to his comparison number one described by Mr McKinney as a holistic centre and confirmed that the details he had set out in his précis referred to a barber's shop and that the photograph which he had handed in to the Tribunal was of his comparison number one. He said that the rates p.s.f. on his comparisons of £18, £16 and £12 in Francis Street and £20 in Abbey Street supported the level he had applied to the subject.

### **Determination**

The Tribunal has considered the evidence offered by Mr. McKinney for the appellant and the evidence offered by Mr. Conroy for the respondent. The Tribunal notes the uncontested evidence that the rent in 1994, at £5,940, was for half the premises and doubling this rent would create a rent in the region of £12,000. In this context Mr. Conroy's N.A.V. of £6,669 is considered reasonable. Furthermore Mr Conroy took into account comparisons on Abbey Street and has put a value p.s.f. of less than half that rate p.s.f. on the subject premises. In fact his comparisons were valued at £20 p.s.f. for shops in Abbey Street whereas the subject was valued at £9.00 p.s.f.. Accordingly taking all these factors into account the Tribunal affirms the decision of the respondent and determines the rateable valuation of the subject hereditament to be £27.00.