

Status of Judgment: Distributed

Appeal No. VA98/3/077

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

Oliver Malone & Sean McGuigan t/a Super Sams

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Restaurant/cafe/yard at Lot No. 34.36, Main Street, Sundry Townlands, UD: Cavan, Co. Cavan

Quantum - Comparisons

B E F O R E

Con Guiney - Barrister at Law

Deputy Chairman

Marie Connellan - Solicitor

Member

Finian Brannigan - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 27TH DAY OF SEPTEMBER, 2000

By Notice of Appeal dated the 31st day of July 1998, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £130 on the above described hereditament.

The Grounds of Appeal as set out in the said Notice of Appeal are that; "taking into account the volume of pedestrian and vehicular traffic in the area the previous valuation and amount of work carried out in the premises the rateable valuation is submitted to be excessive".

The Appeal proceeded by way of oral hearing which took place in the Tribunal Office, Dublin, on the 6th December, 1999.

Mr. James M. Donohoe, Solicitor, of Messrs Donohoe Mackey & Co, Solicitors, Cavan, appeared on behalf of the Appellants. Mr. Christopher Hicks, Appeal Valuer 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 their précis of evidence and submitted same to the Tribunal.

MATERIAL FACTS AGREED OR FOUND BY THE TRIBUNAL

- 1: The property is a substantial three storey building with a wide street frontage of 31 ft. in a prominent location in a prime retail area on the Main Street in the centre of Cavan Town;
- 2: The agreed overall floor area is 2,936 sq. ft. incorporating the following:
 - a) Ground floor - Restaurant and Takeaway, kitchen/preparation area containing 1,176 sq. ft.
 - b) First Floor - Restaurant seating, toilets and stores containing 1,107 sq. ft.
 - c) Top Floor - Stores and Office Area containing 653 sq. ft.
- 3: It was accepted the Head Room in the Top Floor has a maximum height of 7ft.

THE APPELLANTS' CASE

At the outset Mr James M. Donohoe indicated he had nothing further to add to his précis which he read over and commented on in detail. He submitted comparison No.2 (Michael Faraday t/a Bacchus Restaurant) was relevant only to the first floor of the subject. He further submitted the premises directly opposite the subject nos.34/36 Main Street as the most relevant comparison.

He was requested to submit his calculation of a reasonable valuation. The Tribunal adjourned to facilitate Mr. Donohoe and on resuming he submitted a reasonable valuation as follows:

Ground Floor:	1,176 sq. ft. @ £13.00	=	£15,288.00
First Floor:	1,107 sq. ft. @ £4.00	=	£ 4,428.00
Top Floor:	653 sq. ft. @ £2.00	=	£1,306.00
	NAV	=	£21,022.00
	RV @ 0.5%	=	£105.11
		SAY	£104.00

RESPONDENT'S CASE

Mr Christopher Hicks for the Respondent having taken the Oath adopted his précis as his evidence in chief. He described the subject as a substantial building in a very prominent location with a corner side entrance and a large frontage which he considered of vital importance. In determining the valuation he considered the rental values of comparable properties in Cavan town. While rental growth is a factor to be considered no clear pattern could be found from the comparisons submitted as no reviewed rents were available. He suggested rental values had increased by 25% over the past ten years in Cavan Town. He referred to his comparisons all located on the Main Street by reference to a Street Plan and commented on same in detail. Comparisons B and G show the highest passing rents. He considered Comparison B has a narrower frontage than the subject and is located in an off prime area. Similarly, Comparison G is slightly set back from the street front, has a narrower frontage and is in an off prime location. He submitted Comparison H Xtravision, which devalues at £15.73 per sq. ft. is reasonably close to the subject with a smaller floor area and a much narrower frontage. He considered this comparison as most relevant and his preferred and best comparison. He further considered a

valuation of £6.00 per sq. ft. on the first floor is not excessive. He accepted the ceiling in the top floor is lower and head room is restricted to a maximum of 7 ft.

Referring to the comparisons submitted by the Appellants, Mr. Hicks stated the RV of £100.00 on Stockmans Restaurant the subject matter of Appeal No. VA 98/3/082 was not determined by the Tribunal but was agreed by the parties. The property was originally valued in 1997 on the passing rent of £30,000. The property was subsequently divided into two units and on revision in 1999 the valuation was assessed on the passing rent which had dropped to £11,000 in respect of each unit yielding a valuation of £44.00 per unit.

He stated Comparison No. 2 (Michael Faraday t/a Bacchus Restaurant) is not located on the Main Street, and is accessed through an archway on First Floor Level and is not comparable to the subject. He disregarded Melbourne Bakery/Shop & Restaurant, Sambos Restaurant, Galligan's Restaurant, The Harvest Restaurant, and Maudi's Restaurant, on the basis they are old valuations and obsolete.

He stated Comparison No. 5 (old Mill/Lifeforce Museum & Restaurant) is on the outskirts of the town and is much larger in size than the subject and not comparable. He considered McDonagh's Shoe Shop (45 Main Street) located directly opposite the subject as a relevant comparison. This property is single fronted with a depth of 53ft. almost twice the frontage of the subject and devalues at £14.60 per sq. ft.

The Unit occupied by Angela Smith, Hairdresser, is under an Archway not on the Main Street and is in a secondary location. This Unit devalues at £13.82 per sq. ft. reflecting the small area. Similarly, the Unit occupied by Sheila Gorby, t/a Ideal Clothing is smaller than the subject. The Unit on the first floor occupied by Sharon Smith as a Beauty Salon comprises an area of 495 sq. ft. and devalues at £7 per sq. ft. He submitted first floor rental values do not vary to the same extent as ground floor rental values He further considered the comparisons submitted support his valuation of the First Floor of the subject which devalues at £6.00 per sq. ft.

In cross-examination Mr. Hicks stated his preferred comparison is Xtravision (48 Main Street). Mr. Donohoe queried the passing rent in 1989 which he stated was £9,600 and not £12,000 as recorded in the revising Valuer's Report of 1990. Mr. Donohoe did not have any

evidence to support his contention and accepted the Tribunal must act on the evidence of the Commissioner of Valuation.

Mr. Donohoe submitted that the companies of Xtravision and Dunnes Stores had relocated to Newcourt Shopping Centre which is now the prime area of Cavan town demanding substantially higher rents than the Main Street and with easy parking facilities. Mr. Hicks did not agree and stated that rents have fallen in the Newcourt Centre and in his opinion the Main Street remains the prime retail area where all the Banks and Building Societies are located.

Mr. Donohoe then indicated that in the light of Mr. Hicks' evidence he wished to withdraw his submission of comparisons 2 (Melbourne Bakery/Shop and Restaurant) 3,4,6,7, and 8.

Mr. Hicks did not accept Comparison 5 (Old Mill/Life Force Museum and Restaurant) is in any way comparable to the subject. On enquiry from the Chairman, Mr. Hicks stated his preferred comparison of the first floor is Comparison C (Con Dolan), which devalues at £7.35 per sq. ft. This property is located in an off prime area and is smaller than the subject. He stated the subject has an excellent layout with more than double the frontage and considered that £6.00 per sq. ft. is reasonable and a figure one would expect. On further enquiry from the Chairman Mr. Donohoe stated his preferred comparisons are the first floor premises opposite the subject known as Finishing Touches and Sorrento's Coffee House on the ground floor.

In final submissions Mr. Hicks stated many rents in Newcourt Shopping Centre have fallen as expectations were not realised whereas there is no evidence of rents having fallen in the Main Street which in his opinion remains the prime retail area and best location.

In closing submissions Mr. Donohoe maintained the Newcourt Shopping Centre is the prime retail area with easy parking and considers the subject as not in the prime retail area of the town and the deficit in location stands.

DETERMINATION

The Tribunal has considered the submissions made by the parties and notes no sworn evidence was given by the Appellants. The Tribunal has carefully considered the evidence adduced by the Commissioner and prefers Mr. Hicks valuation which is well supported by a number of comparisons submitted by him in evidence and upon which he commented in some detail. The Tribunal considers Mr. Donohoe's comparative submissions to be of limited assistance. The Tribunal regards Mr. Hicks preferred comparisons H (Xtravision - 48 Main Street) as the most appropriate one and comparison C (Con Dolan - 21 Main Street) as helpful. The Tribunal adopts Mr. Hicks valuation of the buildings but considers that there should be some quantum reduction taking into account the limited headroom on the top floor of the subject premises.

Having given due regard to the submissions of the Appellants and the sworn evidence of the Commissioner, the Tribunal determines the proper rateable valuation of the subject property to be £125.00 calculated as set out hereunder:

Ground Floor:	1,176 sq. ft. @ £15 per sq. ft.	=	£17,640.00
First Floor:	1,107 sq. ft. @ £6 per sq. ft.	=	£6,642.00
Top Floor:	653 sq. ft. @ £1 per sq. ft.	=	£653.00
	NAV	=	£24,935.00
			SAY £25,000.00
	RV @ .5%:	=	£125.00