

Appeal No. VA98/3/125

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

Lucey Yates t/a Flowers by Lucey
APPELLANT

and

Commissioner of Valuation
RESPONDENT

RE: Shop and Store at Map Reference 109, High Street, Townland: Kilkenny,
Kilkenny No.1 Urban, County Borough of Kilkenny.

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 8TH DAY OF DECEMBER, 1999

By Notice of Appeal dated the 5 August 1998, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £54 on the above described hereditament.

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

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

The appeal proceeded by way of an oral hearing that took place in Kilkenny on the 3rd December 1999. Mr. Eamonn Halpin B.Sc. (Surveying) A.S.C.S. A.R.I.C.S. M.I.A.V.I. of Eamonn Halpin & Co. appeared on behalf of the appellant. Mr. Noel Norris, a District Valuer with 23 years experience in the Valuation Office appeared on behalf of the Commissioner of Valuation. A written submission prepared by Mr. Halpin on behalf of the appellant was received by the Tribunal on the 23rd of November 1999 and a written submission prepared by Mr. Norris on behalf of the respondent was received by the Tribunal on the 19th of November 1999. In addition the parties had exchanged their precis of evidence in advance of the hearing. At the oral hearing both Valuers having taken the oath adopted their precis as being their evidence in chief. At the opening of the hearing both sides submitted a set of photographs and Mr. Halpin included in his set of photographs an additional comparison : Lot 103 High Street Kilkenny, the Gourmet Store. Submissions were also made. From the evidence so tendered the following emerged as being the facts relevant and material to and for the purposes of the appeal.

The Property

The property comprises an old-fashioned terraced flower shop with very basic poor quality stores on the floors overhead. The premises are located on High Street.

Valuation History

Premises listed for revision in 1996, Results of revision issued in November 1997 increasing the valuation on the subject to £60. RV reduced to £54 at First Appeal. Appeal to this Tribunal lodged on 5th August 1998.

Appellant's Valuation Assessment and Comparisons

Mr. Halpin on behalf of the appellant assessed the rateable valuation on the subject premises as follows:

Valuation :

Estimated N.A.V. (1988 tone)

Agreed Areas

Shop Zone "A"	245 sq.ft. @ £25.00 = 6,125	
Shop Flr. Zone "B"	101 sq.ft. @ £12.50 = 1,262	
1 st Flr. Loft Store	380 sq.ft. @ £ 2.00 = 760 (very poor conition)	
2 nd Flr. Loft Store	490 sq.ft. @ £ 1.00	<u>490</u>
		£8,637.50

Less 20% to reflect the exceptionally
poor rate of repair of the premises.

£6,912

@ 0.5% = £34.56 R.V.

or

Estimated rental value (1988)

£125 per week

=

£6,500 @ 0.5% = £32.50

Say £33.00

Comparisons

1. **Liam Moore** 1997/3 1st Appeal RV£105. Modernised and extended shop at the High Street/Parliament Street Junction.
2. **Richard Dore (Opticians)** Lot 100-102a High Street 1995/4 1st Appeal RV£102
Exceptional property in the block adjoining the Market Cross shopping centre.
3. **Tio Clothing Concept** Lot 57a High Street. 1995/4 1st Appeal NAV 1988 Tone
£15,000. Excellent retail property on High Street
4. **Goods Department Store** Lot 31 35 High Street (incl. 1236 Mary's Lane.) RV
£360. VA97/2/048.

Respondent's Valuation Assessment and Comparisons

Valuation :

Shop grd. flr.	Zone A	245sq.ft. @ £25.00 p.s.f.	=	£6,125
	Zone B	101sq.ft. @ £12.50 p.s.f.	=	£1,263
First Flr.	Store	380sq.ft. @ £ 5.00 p.s.f.	=	£1,900
Second Flr.	Store	490sq.ft. @ £3.00 p.s.f.	=	<u>£1,470</u>
				£10,758

R.V. @ 0.5% = £53.79

Say £54.00

Comparisons 3, 4 & 5 similar location in old buildings.

Comparisons

1. **100/102 High Street (incl James Street)** £102 RV. 1995/4 FA.
2. **Tivoli Cleaners Ltd** Lot 80-82/27 Market Cross (frontage to James Street).
RV £75. 1995/4 FA.
3. **Tholson Frame Shop**, 105 High Street. RV£15 1997/4 FA. Adjacent to
subject property. Lease from 1991 for 2 years 9 month at £70pw = £3640pa.
4. **James Mulcahir** 107 High Street, RV £20 1997/4 Revision. Lease from 1997
@ £4,800pa.
5. **Walk and Talk** 111 High Street Kilkenny. RV £60 1997/4 Revision.

Tribunal Findings and Determination

The Tribunal has considered the written submissions of the appellant and the respondent and the Tribunal has also considered the evidence produced at the oral hearing by the appellant and the respondent. The Tribunal finds that the subject property is of an inferior standard of construction and indeed during the hearing Mr Norris on behalf of the respondent conceded this fact with respect to the second floor of the subject. As to the location, the Tribunal finds that it occupies less than a primary location. There had been, during the hearing, a direct clash of evidence between the witness for the appellant and the witness for the respondent as to the traffic flow and the pedestrian flow which passed the subject premises. They based this evidence on their observations. However Mr. Halpin gave additional evidence on behalf of the appellant as to the secondary uses of the property adjacent to the subject and on the same side of the street and this evidence leads the Tribunal on the balance of probabilities as to its findings on the location. Accordingly taking these factors into account the Tribunal determines the rateable valuations of the subject hereditaments as follows:

Shop ground floor Zone A	245 sq.ft. @ £22.50 = £5,513
Zone B	101 sq.ft. @ £11.25 = £1,136
First Floor	380 sq.ft. @ £2.00 = £760
Second Floor	490 sq.ft. @ £2.00 = £980
NAV = £8,389	
@ 0.5% = R.V. £41.95 say £42	

The Tribunal so determines the rateable Valuation on the subject hereditament to be **£42.**

