

Appeal No. VA08/5/019

AN BINSE LUACHÁLA
VALUATION TRIBUNAL
AN tACHT LUACHÁLA, 2001
VALUATION ACT, 2001

John Lett

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 446385, Shop at Unit 3 Cornerpark Shopping Centre, Newcastle, Co.Dublin.

B E F O R E

Fred Devlin - FSCS.FRICS

Deputy Chairperson

Aidan McNulty - Solicitor

Member

Tony Taaffe - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 13TH DAY OF OCTOBER, 2008

By Notice of Appeal dated the 26th day of June, 2008 the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €40,100 on the above described relevant property.

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

"A greater than 250% increase in rates within one year is oppressive and is not sustainable for the business and will bring a question mark over the viability of the business as a going concern, particularly given the general market conditions that now prevail."

This appeal proceeded by way of an oral hearing held in the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 18th day of September, 2008. At the hearing the appellant appeared on his own behalf and Mr. Karl Gibbons, BSc, a Valuer in the Valuation Office, appeared on behalf of the respondent, the Commissioner of Valuation.

The Property Concerned

The property concerned in this appeal is a retail unit in the Cornerpark Shopping Centre located on the main street in the village of Newcastle, Co. Dublin.

The Cornerpark Shopping Centre comprises a parade of five retail units on ground floor level with two additional units at the first floor level. At the front there is communal car parking and at the rear a service yard for deliveries and services.

The subject unit, which is situated in mid-terrace, trades as 'Lett's Craft Butchers' and has recently been re-fitted to a very high standard.

Accommodation

The area measured on a net internal area basis is 157.59 sq. metres. Internally the unit has been subdivided to provide retail space, meat preparation area/cold store area, offices and staff accommodation.

Tenure

The property concerned is held under a lease from January 2007 at an annual rent of €30,000 plus rates and all other usual outgoings.

Valuation History

On revaluation the property was assessed at a valuation in the sum of €40,100. No change was made on foot of an appeal to the Commissioner of Valuation and it is against this decision of the Commissioner that the appeal to the Tribunal lies.

Appellant's Evidence

Mr. Lett in his evidence said that he had previously traded out of much smaller premises in Newcastle and in January 2007 entered into a lease arrangement for the property concerned. Having done so, he then set about carrying out a complete refit of the premises so as to provide an outlet that was attractive and met all the hygiene requirements for the sale and preparation of food. With this in mind, Mr. Lett said, he had travelled to Holland to obtain advice on shop layout and to purchase refrigerated display cabinets and other necessary equipment for his business. In total, Mr. Lett said, he had expended a sum of between €450,000 and €500,000 of which approximately half was on equipment and the rest on building and fit-out works. In due course he opened for trading in June 2007.

Mr. Lett said his main concern was the amount he was now obliged to pay in rates as a result of the revaluation. In fact he was of the opinion that he was being penalised for improving the premises and providing employment. Mr. Lett said that business at this time was competitive and the fact that other operators in the same business as him, in the vicinity, paid a lesser sum on rates put him at a disadvantage.

Respondent's Evidence

Mr. Gibbons having taken the oath adopted his précis of evidence and valuation which had previously been received by the Tribunal as being his evidence-in-chief.

In his evidence Mr. Gibbons contended for a valuation of €40,100 calculated as set out below.

| | | | |
|----------------------------------|------------------|----------------------|------------|
| Block 1: Zone A | 44.46 sq. metres | @ €500 per sq. metre | = €22,230 |
| Block 2: Zone B | 44.46 sq. metres | @ €250 per sq. metre | = €11,115 |
| Block 3: Zone C | 44.46 sq. metres | @ €125 per sq. metre | = €5,557.5 |
| Block 4: Remainder | 24.21 sq. metres | @ €50 per sq. metre | = €1,212.5 |
| Valuation Office Estimate of NAV | | | €40,100 |

In support of his opinion of net annual value Mr. Gibbons introduced four comparisons, details of which are set out in the Appendix attached to this judgment.

In his evidence Mr. Gibbons outlined how the Valuation Office had analysed the rents of retail premises in the Newcastle area and other locations of a similar size and nature in the South County Dublin area. As a result of this analysis the Valuation Office had come to its conclusion that a Zone A rate of €500 per square metre was appropriate for retail units in Newcastle as of the relevant valuation date of 30th day of September, 2005. Mr. Gibbons agreed that the rateable valuation of the subject property was in excess of the passing rent. He pointed out that there was no consistent pattern of rents in the Newcastle area and other similar areas and that the Zone A rate of €500 per square metre was a median figure after the examination of all available rents at the relevant date. Furthermore, he said, the property concerned was well located in the village centre and provided excellent retail space.

Findings

The Tribunal has carefully considered all the evidence and opinions adduced at the hearing and finds as follows:

1. The statutory basis of valuation is set down in Section 48 of the Valuation Act, 2001 where at subsection 3 the net annual value of a property is defined as being:

“The rent for which, one year with another, the property might, in its actual state, be reasonably expected to let from year to year, on the assumption that the probable average annual cost of repairs, insurance and other expenses (if any) that would be necessary to maintain the property in that state, and all rates and other taxes and charges (if any) payable by or under any enactment in respect of the property, are borne by the tenant”.
2. In Rating Law the onus of showing that the valuation of the property concerned appearing in the valuation list is incorrect lies with the appellant.
3. The over-riding aim of revaluation is the preparation of a valuation list where all valuations contained therein are accurate, fair and relative to each other. In this regard the Tribunal is of the opinion that the Valuation Office approached the valuation of the subject property and other retail premises in the Newcastle area in a proper and professional manner in that they carried out an analysis of all available rental evidence at or about the relevant valuation date of the 30th day of September, 2005. As a result of this analysis they came to the conclusion that the appropriate Zone A rate for retail properties on Newcastle

Main Street was €500 per square metre. No evidence was adduced to show that this level was either unreasonable or unfair.

4. Mr. Lett came across as a hard working and experienced trader who, having made a very substantial investment in his business, felt that he had been unduly penalised for so doing. While the Tribunal to some extent recognises Mr. Lett's disenchantment with the rating system, the fact of the matter is that there is no evidence to show that the valuation of the property concerned as assessed by the Valuation Office was incorrect.

Determination

Having regard to the above, the Tribunal determines that the rateable valuation of the property concerned in accordance with Section 48 of the Valuation Act, 2001 is €40,100. Consequently the appeal is dismissed.

And the Tribunal so determines.