

Appeal No. VA11/5/024

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

Patricia Campbell

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 439774, Shop at Mart House, Leopardstown Road, County Dublin.

B E F O R E

Fred Devlin - FSCSI, FRICS

Deputy Chairperson

Brian Larkin - Barrister

Member

Mairead Hughes - Hotelier

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 19TH DAY OF DECEMBER, 2011

By Notice of Appeal dated the 17th day of June, 2011 the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €12,220 on the above described relevant property.

The grounds of appeal are set out in the Notice of Appeal and accompanying pages, copies of which are attached at Appendix 1 to this judgment.

1. The appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 22nd day of September, 2011. At the hearing the appellant appeared on her own behalf and was accompanied by her husband Mr. James Campbell who took no part in the proceedings. Mr. John Purcell, BSc, MRICS, MSCSI, a Valuer in the Valuation Office, appeared on behalf of the respondent, the Commissioner of Valuation.
2. Prior to the oral hearing the parties forwarded to the Tribunal and exchanged a précis of the evidence and submission they proposed to adduce at the oral hearing. From the evidence so tendered and additional evidence received orally at the hearing, the following material facts were agreed or are so found.

The Property Concerned

3. The property concerned in this appeal is an end of terrace lock-up shop, in a parade of four, in a two storey development known as Mart House, located on the west side of Leopardstown Avenue, in that section between Leopardstown Road and Leopardstown Lawn. The surrounding area is mainly residential in character and the nearest commercial properties in the area are the Leopardstown Inn and five retail units close-by on Leopardstown Lawn.
4. The subject property which is known as Unit 1a, is occupied as a ladies hairdressing salon and provides the following accommodation measured on a net internal basis. The areas set out below are not in dispute.

Total area 15.34 sq. metres

Frontage 2.2 metres

5. The property is occupied under a lease for a term of 14 years from 1st September, 2004 at an initial yearly rent of €10,000 per annum. In addition to rent, the tenant is responsible for rates and other usual outgoings. The initial rent of €10,000 per annum was subject to review in September, 2008 at which stage the rent was left unaltered.

Rating History

6. As part of the revaluation of each relevant property in the Dunlaoghaire Rathdown rating authority area carried out under Section 19 of the Valuation Act, 2001 the net annual value of the property concerned was determined at €12,220. In due course, an appeal against the assessment was made to the Commissioner of Valuation under Section 30 of the Act. Having considered the appeal, the Commissioner of Valuation affirmed the valuation of €12,220 and it is against this decision of the Commissioner that the appeal to this Tribunal lies.

The Appellant's Evidence

7. Ms. Patricia Campbell, having taken the oath, outlined her grounds of appeal as follows:
- Rates have increased from €1,023.35 to €2,077.41 – difference being €1,054.06.
 - There is no difference to the premises since last year's rates.
 - I am creating employment in the area. I have six members of staff.
 - I am a small business struggling to survive and with this outrageous increase it may put me out of business completely. With the amount of work I have put into my business, it seems that there is no compassion or understanding of what this increase will mean to me both personally and on a business level.
 - In order to meet the costs, I would have to reconsider [*sic*] decreasing my staff members in order to meet these extra costs.
 - The Government are encouraging small businesses by reducing Employers' PRSI and VAT and it seems ridiculous that the rates are increasing in these very recessionary times.
 - We already pay our water rates and bin charges separately. These are extra charges and should not be included in the rates.
 - What do the rates cover?
 - Last year during the very bad weather, we had to clear our own footpaths and roads so that our customers could get access to our premises. At no time did Dunlaoghaire Rathdown County Council supply any sand or staff to clear the treacherous roads/footpaths and this was all done by our own staff.

- Two years ago, we had to fight for parking spaces, as yellow lines were put on the side roads without any communication or discussions with any businesses in the area from Dunlaoghaire Rathdown County Council.
 - It seems that we are paying for all the new premises and apartments in the area. Is this for those who do not make any contribution, i.e. Luas and other local services?
 - My 2005 rates were €1,023.35 and in 2011 they have increased to €2,077.41. In 2005 this country was booming and now in 2011 we are in a recession and it seems ridiculous to think that rates have increased so dramatically. Can you please give me an explanation as to how this increased figure has been arrived at and how it is justified in these recessionary times?
 - The value of my lease has not changed since 1st September, 2004. Because of the recessionary times, this figure has not changed even though I was supposed to have a review. The reason for the no change is because of the slump in business due to the recession.
8. Ms. Campbell said she took over the premises about two to three years ago and spent a considerable amount of money in upgrading the fittings and fixtures to accord with modern standards. In essence, she said her biggest concern was that, as a result of the revaluation, her annual rates bill had more than doubled over the past five years or so and this, together with other increased costs and general economic downturn, was putting pressure on her business. As a consequence, she had made two staff redundant. Ms. Campbell also highlighted the lack of adequate car parking in the vicinity of her business and said that to some extent this had been alleviated by the removal of yellow lines immediately outside the parade.
9. Under examination by Mr. Purcell, Ms. Campbell agreed that generally speaking rents may have increased during the period 2007-2010. However, Ms. Campbell pointed out that the rent of her premises had not been increased at the 2008 rent review.

The Respondent's Evidence

10. Mr. Purcell, having taken the oath, adopted his written précis and valuation which had been received by the Tribunal and the appellant as being his evidence-in-chief.

11. In his evidence, Mr. Purcell said that the value of the property concerned had been determined in accordance with Section 48 of the Valuation Act, 2001 as part of the revaluation of each relevant property in the Dunlaoghaire Rathdown rating authority area. The relevant valuation date in accordance with Section 20 of the Act being 30th September, 2005.
12. Mr. Purcell said that having carried out an analysis of rental evidence in the vicinity of the property concerned, he came to the opinion that the appropriate Zone A rate for the subject property was €850 per sq. metre and it was on this basis that he had valued all the shops on the parade. In particular, Mr. Purcell said he had regard to the passing rents of two other units in the same parade, details of which are set out below. In the light of these comparisons and the rents above referred to, Mr. Purcell valued the subject property as follows:

Shop

Zone A: 13.42 sq. metres @ €850 per sq. metre = €1,407

Zone B: 1.92 sq. metres @ €425 per sq. metre = € 816

Total €12,223

Net annual value, say €12,220

Comparisons

13. Comparison No. 1

Unit 1, Mart House

Occupied under 21 year lease from 1st April, 2001 subject to an annual rent of €24,000 per annum agreed in April, 2006. Passing rent devalues at a Zone A rate of €90 per sq. metre. NAV determined at €20,600 at appeal to Commissioner of Valuation stage, on the basis of a Zone A rate of €850.

Comparison No. 2

Unit 3, Mart House

Rent for a five year period from the 1st April, 2006 at €24,000 per annum. Rent devalues at a Zone A rate of €1,000. Net annual value determined at €20,300 at appeal to Commissioner of Valuation stage, on the basis of a Zone A rate of €850.

Findings

The Tribunal has carefully considered all the evidence and arguments adduced by the parties and finds as follows:

1. The basis of valuation as set down in Section 48 of the Valuation Act, 2001 and the relevant valuation date in accordance with Section 20 of the Act for the revaluation of each relevant property in the Dunlaoghaire Rathdown rating authority area is 30th September, 2005.
2. The primary grounds of the appeal submitted by the appellant is that as a direct consequence of the revaluation her rates bill increased by more than 100% over the past five years or so. In any revaluation exercise there is a realignment of relative values in regard to properties in the rating authority area concerned. Indeed, the very purpose of a revaluation is to ensure that equity exists between rate payers and as far as it is possible to achieve, each individual rate payer pays his/her proper proportion of the total rates bill. In such a realignment of valuation some rate payers find their rates bill increases whilst others obtain a reduction.
3. Whilst the Tribunal has a degree of sympathy for the appellant who put forward her case in a clear and cogent manner, the only function of the Tribunal in this appeal is to decide whether or not the net annual value of the property concerned has been determined in accordance with the statutory provisions.
4. Having considered the valuation evidence put forward by Mr. Purcell, the Tribunal has come to the conclusion that the assessment of €12,220 is not supported by the actual rent of €10,000 per annum being paid by the occupier of the property at the relevant valuation date of 30th September, 2005. The Tribunal acknowledges that rental values probably increased during the period from September 2004 and the relevant valuation date and that the appellant has carried out some works of improvement to the property. Both these factors and the relatively small size of the shop should be reflected in estimating its net annual value in accordance with the statutory provisions.

Determination

Having regard to the above findings, the Tribunal determines the net annual value of the property concerned to be as follows:

Shop – Zone A – 13.42 sq. metres @ €780 per sq. metre = €10,467

Zone B – 1.92 sq. metres @ €390 per sq. metre = € 748

Total €1,215

Net annual value, say €1,200

And the Tribunal so determines.