

Appeal No. VA96/6/005

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

Cerebral Palsy Ireland

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop at Map Reference 27a (gr. fl.), Mary Street, UD: Clonmel West Urban, Clonmel, Co. Tipperary.

B E F O R E

Liam McKechnie - Senior Counsel

Chairman

Barry Smyth - FRICS.FSCS

Deputy Chairman

Con Guiney - Barrister at Law

Deputy Chairman

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 15TH DAY OF SEPTEMBER, 2000

By Notice of Appeal dated the 5th day of December, 1996, the appellant company appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £55 on the above described hereditament

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

- "1. The valuation is excessive.
2. The valuation is bad in law".

This appeal proceeded by way of an oral hearing, held in Clonmel on the 9th day of February 1998 at which the appellants were represented by Mr. Alan McMillan of GVA Donal O’Buachalla. The Commissioner was represented by the appeal valuer, Mr. Denis Maher, a District Valuer with over 20 years experience in the Valuation Office. In accordance with practice, the parties, prior to the commencement of the hearing, had exchanged their précis of evidence. Having taken the oath both valuers adopted their said respective précis as being and as constituting their evidence in chief. Both were cross-examined. Submissions were made and judgment was reserved.

From the evidence so tendered and adduced the following facts, largely not in dispute emerged as being those both relevant and material to the issues arising on this appeal:

Location

This property is located on the east side of Mary Street opposite its junction with Peter Street and about 65 metres north of its junction with O’Connell Street which street is recognised as being the central retail area of the town. It adjoins Mary Street car park, which has its main entrance/exit on Mary Street. This area has been comprehensively re-developed in the recent past with the comprising schemes including mainly good size shops at street level with domestic apartments on the upper floors.

Description

This above described hereditment, which is situated on the ground floor of a new three-storey end of terrace building has a frontage onto Mary Street of about 7 metres. It also has a frontage onto one of the access roads to the public car-park. This of about 14 metres. Being so located it has a display frontage on both sides. It is used as a shop with a small area partitioned off at the back, which is used as a workshop. There is a small car-park/service yard at the rear of the building, which is used in common with the adjoining occupier. It is a modern unit with a good layout and finish and some street profile. Construction is of concrete block walls with concrete floors and ceilings. It is plastered and painted. It has a toilet and a small kitchenette area. It has a good general condition throughout.

Accommodation

The appeal valuer, on the shop and small work area at the back, has 894 sq. ft. placed thereon with Mr. McMillan suggesting that the area is 885 sq. ft. Nothing turns on this difference.

Valuation History

For the first time, in November 1995 this property was revised. An R.V. of £55 placed thereon. The appellant company appealed to the Commissioner of Valuation. In November 1996 the results of that appeal issued. There was no change and thus an appeal to this Tribunal.

Tenure

The property is held under a lease dated the 30th August 1995, for a term of 35 years from 23rd of March of that year. It is a full repairing and insuring lease. Its initial rent was £12,000 with five-year reviews. There is a break clause at the end of the 7th and 21st year.

Services

All main services are provided.

Designated Area:-

The location in which the subject property is constructed is designated under the Clonmel Urban Renewal Scheme of 1990.

Issues

When this appeal was taken both to first appeal level and to this Tribunal there were two issues in existence between the parties. Firstly, the appellant contended that the use of the reducing factor of 0.5% was unjustified and instead the factor of 0.3% should be applied. The second issue was one of quantum. Arising from the judgment of this Tribunal in the case of Telecom Eireann – VA96/6/012 it is clear that in our opinion the percentage factor advanced on behalf of the Commissioner is the correct and appropriate one for use in that and in this appeal.

Accordingly for the reasons therein stated we propose in this appeal to follow and apply the ratio as given in the Telecom Case. Consequently, that leaves the question of quantum as being the only remaining issue in this appeal.

Commissioner's Case

On behalf of the Commissioner of Valuation, the appeal valuer Mr. Maher suggests that on the area of 894 sq. ft. there should be placed a rate of £12.00psf giving a N.A.V. of £10,728 which when converted by 0.5% gives a resulting R.V. of £53.64, say £55. In his opinion this rate, and thus the N.A.V., are supported by the passing rent and by the rental levels on the street as per lease agreements and as per rental levels agreed in previous appeals. Furthermore he has provided us with a list of four comparisons which in his opinion underpin an R.V. of £55. For ease of reference, these comparisons are listed in **Appendix One** to this judgment.

The Appellant's Case

On behalf of Cerebral Palsy Ireland Ltd., Mr. Alan McMillan, the rating consultant takes issue with the N.A.V. of £11,000. In his opinion firstly the initial passing rent of £12,000 as of March 1995 indicates that the suggested N.A.V. as of November 1988 is excessive, secondly, he claims that indisputably, market conditions were much less buoyant as of November 1988 then either at the revision date or at the hearing date, thirdly, the population figure of the immediate environs was relatively static as between the 1991 and the 1996 Census, fourthly whilst acknowledging that considerable development has taken place all to the betterment of Mary Street, his view is that the designated status has largely driven this investment, fifthly he has offered as comparison the premises 22a Mary Street, details of which are set forth in **Appendix B** to this judgment. In his concluded opinion, the correct estimate of the N.A.V. should be arrived at by placing a rate of £11.30 p.s.f. on 885 sq.ft. thus giving an N.A.V. of £10,000.

Determination

As can be seen from the foregoing when the issue as to the correct reducing factor is eliminated from this appeal the resulting suggested N.A.V.'s are but approximately £700 apart. That equates to a difference in rateable valuation of £3.64, which correctly in our view has been rounded to £5.00. If this had been the only issue in the case we have no doubt but that the matter would have been resolved and no appeal made to this Tribunal. In any event and for the reasons above stated an appeal was of course both necessary and desirable in order to preserve the position of Cerebral Palsy Ireland Limited if and in the event of this Tribunal finding in favour of a different reducing factor of 0.5%. Be that as it may, without any necessity for a detailed

analysis or evaluation of the comparisons adduced by the respective parties, we are quite satisfied from the totality of the evidence that a rate of £12.00psf can be fully justified. Accordingly we propose no change in either the N.A.V. or the rounded up rateable valuation of £55.