

Appeal No. VA90/2/069

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

Patrick McDonnell

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Washeteria at Lot No. 95A, Cabra Road, Cabra East, County Borough of Dublin
Quantum - Tone of the list

B E F O R E

Henry Abbott

Barrister Chairman

Brian O'Farrell

Valuer

Veronica Gates

Barrister

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 30TH DAY OF JANUARY, 1991

By notice of appeal dated the 25th day of July 1990, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £45 on the above described hereditament.

The grounds of appeal as set out in the notice of appeal are that

"The determination did not take into account the entire tenancy terms with reference to restrictive covenants, with rent payable on comparable premises, profits method, parking

amenities, business environmental changes, error made by appeal valuer in the measurement of the shop floor, four other washeterias opened in this area in the past 18 months, rents higher in this block of shops than the prime area of Phibsboro."

Written submissions

A written submission was received from Mr Peter Conroy, a valuer in the Valuation Office, on behalf of the respondent on the 21st January, 1991. In this Mr Conroy outlines the valuation history of the premises as follows:-

The property was first valued in 1938 as House, hairdressing salon and yard with an RV of £40 as follows:

Hairdressing salon (ground floor front)	RV £15
Hairdressing salon (ground floor back & room)	RV £12
House (upper part)	RV £13

In 1986 the property was again the subject of a revision but no change was made in the valuations.

In 1989 a request to "Value change of use to washeteria" was received by the Commissioner from Dublin Corporation. As a result of this revision the two ground floor lots were amalgamated and valued as one and description amended to Washeteria, with RV £45. This was appealed to the Commissioner of Valuation and no change was made. It is against this latter determination that the appeal lies to the Tribunal.

Mr Conroy says that the property is located on the north side of Cabra Road, $\frac{3}{4}$ mile from Phibsboro Cross and $1\frac{1}{2}$ miles from the City Centre. It is located on a main road in a

predominantly residential area. The premises comprise a ground floor shop in a terrace of shops. There are also two banks, a building society and an insurance office in the terrace. The subject property is located towards the end of the terrace. Mr Conroy described the area as a neighbourhood shopping centre.

Mr Conroy said that the subject premises consist of 710 sq. ft. of retail space with 150 sq. ft. of stores at the rear. All main services are connected to the property.

Mr Conroy said that the property is held on a 35 year lease from 1978 with 5 year rent reviews. The current rent is £7,500 p.a. and was last reviewed in May 1988. The tenant is liable for rates, repairs and insurance. Mr Conroy said that the rent passing of £7,500 as agreed between the parties in May 1988 is the best evidence of net annual value as it clearly represents the rent a tenant would offer on the basis of taking one year with another. He then outlines how the rateable valuation was calculated as follows:-

N.A.V. is £7,500 as at November, 1988

This devalues:	Washeteria (front) 291 sq ft @ £14 =	£4,074
	Washeteria (rear) 420 sq ft @ £ 7 =	£2,940
	Boilerhouse/store	<u>£ 500</u>
		£7,514
		Say £7,500

Overall:

	711 sq ft @ £10 =	£7,110
	Balance	<u>£ 500</u>
		£7,610
		Say £7,500

Rateable Valuation:

Net Annual Value £7,500 @ 0.63% = £47.25

Say £45.00

Mr Conroy offers two comparisons as follows:

1. Winchurch Investments Ltd t/a Laundry & Dry Cleaning Shop
365 North Circular Road

2. Clonturk Trading Ltd.
351 North Circular Road

The details of the rateable valuations of these comparisons are attached in Appendix "A".

Mr Conroy said that both comparisons are shops of similar function i.e. washeteria or launderette. He said that both have been recently revised and are located within $\frac{3}{4}$ of a mile of the subject property. He said that these offer the best comparative evidence of net annual value available. He then said that it was not possible to compare shops immediately adjoining the subject as none has been recently revised under the provisions of the 1986 Act. He said the most recently revised shops devalue as follows:-

No 109A

Occupier:	John Daly	RV £75	1982 revision
Shop	45m ² @ £1.20 =	£54.00	
Dispensary	26m ² @ £0.60 =	£15.60	
Stores	17m ² @ £0.30 =	<u>£ 5.10</u>	
		£74.70	Say £75.00

Estimated NAV 945 sq ft @ £12.50 = £11,800

£11,800 @ .63% = £74.41 Say £75.00

No 107

Occupier	Margaret Cullen	RV £105	1979 revision
Shop	76m ² @ £0.90 =	£68.40	
Shop	22m ² @ £0.60 =	£13.20	
Stores	79m ² @ £0.25 =	£19.75	
1st floor stores	37m ² @ £0.10 =	<u>£ 3.70</u>	
		£105.05	Say £105

Estimated NAV 1055 sq ft @ £12.50 = £14,181

850 sq ft @ £ 3.50 = £ 2,975

1st fl say £ 1,000

£17,000

£17,000 @ .63% = £107.10 Say £105

No 103

Occupier:	Rainbow Chinese Takeaway	RV £60	1986 revision
Shop	18m ² @ £1.20 =	£21.60	
Kitchen	32m ² @ £0.70 =	£22.40	
Stores	11m ² @ £0.35 =	£ 3.85	
	15m ² @ £0.70 =	<u>£10.50</u>	
		£58.35	Say £60.00

Estimated NAV 699 sq ft @ £12.50 =	£8,742
118 sq ft @ £ 6.00 =	<u>£ 710</u>
	£9,452
£9,452 @ .63% =	£59.54
Say	£60.00

ORAL HEARING:

At the oral hearing which took place on the 25th January, 1991 Mr Patrick McDonnell represented himself and Mr Peter Conroy represented the Commissioner of Valuation. Mr McDonnell handed a written submission to the Tribunal and to Mr Conroy outlining the following points;

- (1) The change in the local business environment - the terrace of shops was now by superseded by Phibsboro Shopping Centre, Prussia Street Centre and Janelle Centre in the Western catchment areas.
- (2) The centre has been taken over by a higher order of commercial activity such as banks, insurance businesses etc.,
- (3) Carparking has been totally eroded by staffs of the new commercial offices.
- (4) The recent openings of three other "high-tech" launderettes within 700 to 800 yards radius.
- (5) The restrictive covenant in the lease which restrict the use of the premises to that of dry cleaning and launderette business.
- (6) The appeal Valuer erred in calculating the area of the premises.

- (7) The valuation of other adjacent premises which have been revised recently in particular No. 95B Cabra Road and No. 97 Cabra Road. (Mr McDonnell attached details of these rateable valuations and a number of other premises which he extracted from the Dublin Corporation rate books and a list of these are attached as Appendix "B".)
- (8) The high and increased charges which have to be paid for water in respect of the business.
- (9) The increased cost of replacing machinery and plant. Due to the advancing age of machines, an enormous capital cost would have to be laid out to replace them.

Mr McDonnell also pointed out that the changing social patterns including the higher level of washing machines and heated tumble driers in home ownership, the dropping of two major bus routes which formally served his shops, the introduction of free bus transport by the large shopping centres, an increased crime rate in the area over the recent years and the higher levels of unemployment in the immediate area, all combined to result in less spending on launderette services. Mr McDonnell said that all of the above factors impinged very much on his profitability. Mr McDonnell also supplied details of his Trading and Profit & Loss Accounts for the period ending March 1989 and March 1990. It is the policy of the Tribunal not to publish details of such accounts in their judgments which are public documents.

Mr Peter Conroy gave evidence as outlined in his precis of evidence summarised above. Mr Conroy said that it was not possible to compare the shops immediately adjoining the subject as none had been recently revised under the provisions of the 1986 Act. Mr McDonnell disputed this and indicated that the reference number in Dublin Corporation rate books of R.89 on the

premises of 95B Cabra Road, R.V. - £42.00, and 97 Cabra Road, R.V. - £43.00 indicated that they had been recently revised. He said that No. 97 Cabra Road is occupied by the Bank of Ireland and that it was clearly unfair that he should be paying higher rates than a bank which was practically next door to his shop. Mr Conroy said that of the seventeen shops only seven had been revised since 1984. He said that there may have been a change of title which could account for the reference in the Corporation books. Mr Conroy emphasised again that what was important under the 1986 Act was the Net Annual Value of the premises and that this would indicate the rateable valuation which the Commissioner had fixed on revision.

The Tribunal have considered all the salient points in this case as presented both orally and in writing by both parties and it is in agreement with the approach taken by Mr Conroy. However, the Tribunal is also very conscious of the fact that whatever about shopping in the area in general, business in this particular washeteria is in decline, the machinery is ageing and there is stiff increased competition from new washeterias in the immediate area. This in itself would not necessarily indicate that there should be a reduction in the rateable valuation of the property but alongside this it must balance the fact that a bank and the shop adjacent to the subject premises have lower rateable valuations. The Tribunal cannot decide on the evidence whether these premises have been recently revised or should have been recently revised. Nonetheless, it seems to be unfair that Mr McDonnell, whose business is clearly in decline, should have his premises rated in excess of those immediately beside him and in particular a modern bank. Accordingly, the Tribunal determines that the proper rateable valuation on this premises should be £43.00.