

Appeal No. VA91/4/007

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

**Jean Cooper**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Shop, stores and offices at Lot No. 33 O'Connell Street Lower, North City Ward County  
Borough of Dublin  
Quantum - Key Money

**B E F O R E**

**Paul Butler**

**S.C. (Acting Chairman)**

**Brian O'Farrell**

**Valuer**

**Padraig Connellan**

**Solicitor**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 27TH DAY OF JULY, 1992**

By notice of appeal dated 12th day of December, 1991, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £395 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that the valuation is excessive and inequitable having regard to the Valuation Acts and having regard to the passing rent.

### **The Property**

The property is situated on the eastern side of O'Connell Street Lower, close to the junction with North Earl Street. The property consists of a four storey over basement building with a two storey section to the rear. The ground floor is used as retail space, the basement has a kitchen and storage areas and the upper floors comprise of office and storage space. All the main services are connected to the property. The property is held on a 35-year lease with 5-year reviews from the 1st October, 1985. The rent has been agreed as follows for the second 5 years:

£40,000 p.a. from 1st October, 1990  
 £47,500 p.a. from 1st October, 1991  
 £52,500 p.a. from 1st October, 1992  
 £60,000 p.a. from 1st October, 1993  
 £65,000 p.a. from 1st October, 1994.

### **Valuation History**

Prior to the 1987 revision the property was in four separate lots. Following the 1987 revision the property was valued as two lots - (a) ground floor, basement and first floor at £555 and (b) second and third floors at £60. After 1st appeal stage the two lots were amalgamated and reduced to £450. The property was again listed for revision in 1990 on the grounds that the valuation represented an inequitable percentage of rental value. No change was made to the Rateable Valuation of £450. The Appellant appealed this decision to the Commissioner of Valuation who reduced the Rateable Valuation to £395. It is against this amount that the appeal now lies with the Tribunal.

### **Written Submissions**

A written submission was received on the 17th of February, 1992 from Mr. Joe Bardon, A.R.I.C.S., Dip in Environmental Economics, of Spain Courtney Doyle, 68 Lower Baggot Street, Dublin 2. In his submission Mr. Bardon gave the agreed accommodation of the property as follows:

Ground Floor - 1,170 sq. ft.  
 First Floor - 549 sq. ft.  
 Second Floor - 549 sq. ft.  
 Third Floor - 549 sq. ft.  
 Basement - 1,267 sq. ft.



October 1985 as per Rent Review agreement- £53,000  
 Allow 13.4% between November 1988 and  
 October 1990 - £ 7,102  
 as per Jones Lang Wootton ERV Shops Index  
 £45,898

Say £46,000

Alternatively:-

**Ground Floor**

Zone A	420 @ £50.00 = £21,000
Zone B	420 @ £25.00 = £10,500
Zone C	330 @ £12.50 = £ 4,125
Basement	1,267 @ £ 3.00 = £ 3,801

**First Floor** 549 @ £ 5.00 = £ 2,745

**Second Floor** 549 @ £ 4.00 = £ 2,196

**Third Floor** 549 @ £ 3.00 = £ 1,647

**TOTAL** **£46,014**

Say £46,000

**The Rateable Valuation would therefore be:-**

Nett Annual Value	£46,000
	<u>x 0.63%</u>
	£289.90 Say £290.00

A written submission was received on the 19th February, 1992 from Mr. Tom Cuddihy B.Agr. Sc., a District Valuer with 25 years experience in the Valuation Office. In this precis Mr. Cuddihy set out the location, description and valuation history of the property. On commenting on the appellants grounds of appeal he said that the Rateable Valuation is in line with other recently revised properties in O'Connell Street and that the valuation is approximately .63% of the Net Annual Value. He said that the properties on both sides of the street have been revised recently and that a uniform Net Annual Value had been established based on rental information derived from these properties. Mr. Cuddihy submitted seven comparisons to the Tribunal which are attached as Appendix "A".

Mr. Cuddihy said that in arriving at the Rateable Valuation he relied on the comparative method and that particular regard was had to the relationship of Rateable Valuations to rental

levels for recently revised properties in the area. He set out his calculations for Net Annual Value and Rateable Valuation as follows:

**Valuation Basis:**

Gr. Fl. -	Zone A	420 ft <sup>2</sup> @ £70 /ft <sup>2</sup>	= £29,400
	Zone B	420 ft <sup>2</sup> @ £35 /ft <sup>2</sup>	= £14,700
	Remainder	330 ft <sup>2</sup> @ £17.50/ft <sup>2</sup>	= £ 5,775
Bsmt Stores -		1267 ft <sup>2</sup> @ £5 /ft <sup>2</sup>	= £ 6,335
First Fl -		549 ft <sup>2</sup> @ £5 /ft <sup>2</sup>	= £ 2,745
Second Fl -		549 ft <sup>2</sup> @ £4 /ft <sup>2</sup>	= £ 2,196
Third Fl -		549 ft <sup>2</sup> @ £3 /ft <sup>2</sup>	= <u>£ 1,647</u>
			£62,798

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$$\text{Est. N.A.V.} = £62,800 \times .63\% = \underline{\underline{£395.00}}$$

**Oral Hearing**

The oral hearing took place on the 24th February, 1992 when Mr. Joe Bardon represented the Appellant and Mr. Tom Cuddihy represented the Respondent. Ms. Jean Cooper was also present.

Mr. Bardon in his oral evidence, relied on his written submission. He said that the valuation date is November, 1990. He said that the important factors relating to this appeal were the title, valuation history and the factors affecting rental value which are all outlined in his submission. He supplied one comparison i.e. Clarkes Shoe Shop on Lower O'Connell Street. He referred the Tribunal to Appeal No. VA/91/2/41 - Seebeck Limited V The Commissioner of Valuation on Lemon Street where the R.V. was determined on the passing rent. He said that the same circumstances should apply in the subject case. Mr. Bardon, under cross-examination said that the property was sold by the receiver for £170,000, he said that there was an element of back rent of £30,000, back rates of £11,000 and fixtures and fittings of £15,000, the balance of £114,000 would mainly be considered as key money with a small portion applying to goodwill. He said that a purchaser pays key money for the right to trade notwithstanding that the full rack rent would be paid for the right at a specific location. Mr. Bardon said that the improvements should not be included because they were done after the valuation date (November 1990). He also said that there was no passing rent on five of the respondent's comparisons adjoining the subject. Mr. Bardon's contention was that properties in North Earl Street would be more valuable.

Mr. Cuddihy also relied on his written submission. He said that the subject premises is situated in the prime retail area of O'Connell Street. He said that when he inspected the property it was completely gutted out and that the figure of £15,000 for Fixtures & Fittings is too low. He said that he was given a figure of £60,000 - £100,000 as being the cost of renovating, an exact figure was not available as the work was not finished. He said that the main comparison is 1.2 O'Connell Street Upper which has a passing rent of £130,000. He said that the Appellants comparison is situated in an inferior part of O'Connell Street and that it cannot be compared with the subject. Most of Mr. Cuddihy's evidence was based on his comparisons. He handed in a chart analysing ground floor rental levels to the Tribunal. This chart is attached as Appendix "B". He said that the property must be treated in its final form i.e. what it would be let for now. Mr. Cuddihy didn't agree that properties in North Earl Street were more valuable to those on O'Connell Street and he said that there is no evidence to show this. He also said that Clearys is a big plus for attracting customers to O'Connell Street.

### **Determination**

The Tribunal accepts that where key money is paid for properties in a prime location that this premium is paid for "a right to trade notwithstanding that the full rack rent will be paid for the right to trade at a specific location". The Tribunal, in arriving at its determination, has taken both written and oral evidence into consideration and has come to the conclusion that the rateable valuation of £395 should be reduced to £365 and so determines.