

Appeal No. VA92/3/010

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

Mr. Donut Sales Limited t/a Baron Johns

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Unit 48 (Lot 48ab) Crumlin Shopping Centre, Crumlin Road, Crumlin Ward, County Borough of Dublin

Quantum - Turnover method

B E F O R E

Henry Abbott

S.C. Chairman

Padraig Connellan

Solicitor

Joe Carey

P.C. M.I.A.V.I.

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 4TH DAY OF SEPTEMBER, 1992

By notice of appeal dated 20th day of May, 1992, the appellants appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £475 on the above described hereditament.

The grounds of appeal are that the valuation is excessive and inequitable having regard to the provisions of the Valuation Acts and on other grounds also.

The Property

The property is a unit in Crumlin Shopping Centre. The Centre is beside Crumlin Road near its junction with Sundrive Road and Old County Road four miles approximately from the City Centre. The Shopping Centre was built in 1973 to 1974 and consists of 48 units and 2 major stores. The adjoining car park accommodates 640 cars and it serves the subject premises well.

The subject consists of an Off License Shop at ground floor level with licensed bar/lounge at first floor level and storage area at basement level. The tenure of the premises has not been finalised by reason of the reluctance of the appellants to submit to particular clauses in the lease proffered but they remain in possession under agreement for lease at a rent of £30,000 per annum.

Accommodation:

Ground Floor	Shop	1225 ft ²
First Floor	Bar/Lounge Toilets	3050 ft ²
Basement	Stores	1600 ft ²

There is a service charge of £16,000 per annum.

Valuation History

(1) In 1983 this property was first valued as follows:-

- (a) The ground floor and basement were valued as lot "48a", with description "Restaurant and Stores". The rateable valuation was fixed at £90.

At that time this lot consisted of a restaurant (665 sq.ft. approximately), kitchen and toilets at ground floor. The basement was used as associated office, stores and staff canteen.

- (b) The first floor was valued as lot "48b", with description "Snooker Hall". The rateable valuation was fixed at £120.

At that time, this hereditament consisted of a snooker hall (3150 sq.ft. approximately) and toilets. Access to this premises was via stairway at the rear of the building.

- (2) In 1984, lot 48a and lot 48b were both listed for revision of valuation. On revision, it was found that the ground floor restaurant had been converted to use as a licensed bar and the first floor had been converted to use as a lounge.

The property was valued as one hereditament (lot 48ab) with description "licd. shop and stores". The rateable valuation was fixed at £350.

At that time, the premises opened for business at 3pm each day Monday to Friday and normal trading hours on Saturday and Sunday.

- (3) In 1984 the occupiers appealed against the revised valuation figure of £350. At first appeal stage, the rateable valuation was reduced to £300.
- (4) In 1989, all hereditaments at Crumlin Shopping Centre, including appellants property, were listed by the Local Authority for revision of valuation.

On inspection it was found that:-

- (a) The ground floor had been refurbished and was used as an off-licence shop.
- (b) The licensed trade was carried on at first floor only.
- (c) The basement was used entirely as storage area for both ground floor off-licence and first floor bar/lounge.

On revision, the rateable valuation was fixed at £475.

Written Submissions

A written submission was received on the 11th August, 1992 from the Commissioner of Valuation and from Lisneys on behalf of the appellant.

The appellant outlined the description of the property and the valuation history. In the submission the appellant stated that the Crumlin Shopping Centre is now one of the older Shopping Centres and that since its development the shopping space in the Dublin area had increased fourfold. It was acquired by Dunnes Stores in about 1978 as an investment and trading operation and the anchor tenant then was Quinnsworth. The trading shops on the front mall of the Centre consisting of financial institutions and take-away food outlets are considerably inferior to the rest of the Centre.

The appellant submitted that the following factors affected value:-

- (a) This unit with floor space of almost 6,000 ft², on three levels is in a part of the Shopping Centre which has proved difficult to let. Lisney unsuccessfully tried to assign the adjoining Dublin Gas unit between mid 1986 and October 1990. Two of seven units on this parade are currently vacant. The subject premises were vacant between 1974 and 1981.
- (b) Licensed premises in Shopping Centres have a history of difficulty and unsatisfactory trading. Such premises have closed entirely in both Stillorgan and Dun Laoghaire Centres.

Public Houses have not been incorporated in more modern shopping centres such as The Square, Tallaght, Nutgrove and OMNI Centre.

- (c) No major expenditure other than the conversion of the bar to an off-licence shop has been committed to these premises since the valuation was last agreed at R.V. £300 in 1984.

The Molloy Group are recognised as being one of the most professionally and progressively managed concerns in the licensed trade in Dublin despite which the licensed turnover has been declining since 1987.

Experience has shown that customers prefer traditional type "locals" rather than public houses in shopping centres which are unattractive outside normal trading hours (6pm weekdays and Sundays).

- (d) Rent reviews in Crumlin Shopping Centre took place in mid 1989. With the benefit of the peak of the 1988/90 property "boom", a fortuitous new letting to a tenant and by using the disregard clause in existing leases the landlord achieved very substantial rent increases which subsequent trading proves were unsustainably high. The new tenant, Fuji, has gone out of business and several premises are vacant with others available at reverse premiums.
- (e) Service charges bear disproportionately on public houses and Shopping Centres being calculated on a floor area basis.

The appellants agents opined that the rental value of the premises at November, 1988 would be £29,400 and a number of comparisons were offered as set out in Appendix 1 annexed hereto.

In the respondents submission the valuation method was set out as follows:-

(a) Ground Floor Shop and Basement Stores

To determine the N.A.V. of this portion of the appealed hereditament, comparison with similar, recently revised units nearby is used.

(b) First Floor Lounge/Bar

Profits method supplemented by comparison with recently revised licensed premises in other Shopping Centres.

Rateable Valuation and Net Annual Value:

(a) Ground Floor Shop and Basement Stores

- (1) In Crumlin Shopping Centre, units facing Crumlin Road have traditionally paid lower rents than units fronting directly onto the Shopping Mall.

Unit No:	Floor Area:	'89 Rent	Location
2	777 sq.ft.	£25,000	Shopping Mall
42	777 sq.ft.	£22,500	Crumlin Road

Difference £2,500 or 10% reduction

- (2) Taking a shop unit of similar size with Shopping Mall

frontage the rental per sq. ft. is calculated as

follows:-

Unit No: 36	Floor Area: 1260 sq.ft.	'89 Rent £39,390	Rent/sq.ft. £31.26 <u>£ 3.13</u> £28.13
Deduct 10% Rent per sq.ft. for unit facing Crumlin Road			

(3) Estimated Rental Value:-

Ground Floor Shop 1225 ft ² @ £28.13/ft ²	=	£34,459
Basement Stores (agreed 1/3 used with G.F. shop)		
	=	<u>£ 2,133</u>
		£36,592

20% adjustment as made in other shop units to allow for:

(1) Increase in rent Nov'88 to Mid '89	£ 7,318
(2) Rent/Rates Factor, etc	
	£29,274
R.V.: Take 0.63%	£184.42

(b) First floor Licensed Bar/Lounge and balance of Basement Stores.

(1) Licd T.O. nett of VAT.

(i) Year Ending 31/12/'87	£552,317
" " 31/12/'88	£527,495
" " 31/12/'89	£499,731
" " 31/12/'90	<u>£525,000</u>
Total licd T.O. for 4 years	= £2,104,543
Average Annual T.O.	= £526,133

- (1) That the net annual value should not be fixed by reference only to gross turnover.
- (2) That the premises was not a landmark type licensed premises which commanded overall support and was, by reason of its dependence on a stairs leading to first floor licensed area, dependent on a younger clientele in an area of ageing population.
- (3) The rateable valuation of comparable premises within the vicinity with more favoured trading status was less than the subject.
- (4) The subject unit is generally in a less advantageous position and with a significantly inferior layout than most other licensed premises in the area.
- (5) Unit letting prices for the Centre (which Mr. Ward claimed were exceptionally high due to aggressive negotiation by Dunnes Stores) should not necessarily apply mechanically to the ground floor part of the premises used for off-license trading.

Evidence was given on behalf of the appellant that the subject premises did not have a good trading record and that while gross profit at 47% of turnover was high the net profit at 7.5% of profit (before loan interest and financial charges) was low. The Tribunal has considered all the comparisons offered and finds that it is constrained to place more weight on the recently valued comparisons within the Crumlin area rather than to go further a field and in particular the Tribunal has considered the comparison of the valuation of the "Submarine" (**Appeal No. VA/91/2/27 - Snug Taverns t/a Submarine Bar V The Commissioner of Valuation**) licensed premises to be important. While the Tribunal feels that it is helpful to have turnover figures especially to indicate the general buoyancy for trade in a particular area the Tribunal is not guided by turnover figures alone in relation to fixing a valuation.

Accordingly, having regard to the evidence and submissions offered by both sides and to all the circumstances of the case the Tribunal fixes a rateable valuation of £320 on the subject premises.