

Appeal No. VA95/3/013

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

Edward Kenny

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop and Stores at Map Ref: 32 (ground floor) Oliver Plunkett Street, Ward: Centre East,
County Borough of Cork
Quantum - Facts to be agreed

B E F O R E

Liam McKechnie S.C.

Chairman

Patrick Riney FRICS.FSCS.MIAVI

Member

Joe Carey PC.DDSc.DBAdm.MIAVI

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 24TH DAY OF FEBRUARY, 1997

By Notice of Appeal dated the 28th August, 1995 the ratepayer appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £90 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that "the rateable valuation is excessive as it is not related to a realistic net annual value".

The Property:

The property comprises a ground floor jewellers shop in Oliver Plunkett Street, Cork. Oliver Plunkett Street is a one-way street approximately midway between St. Patrick's Street, (to which it is linked by four pedestrian streets) and South Mall to the south, which is the premier business area of Cork. Neighbouring properties comprise mainly retail outlets at street level with overhead office and stockroom accommodation. The building is constructed with masonry and brick walls, rendered externally, plastered and painted internally, pitched timber and slate roof, solid ground floor, and timber upper floors. There is a timber shop front at street level.

The accommodation comprises at ground floor level, retail office and stockroom space.

Valuation History:

The property was listed for revision in 1994 with the rateable valuation being assessed at £60. This sum was appealed to the Commissioner and at First Appeal the valuation was increased to £90. It is against this determination that an appeal has been brought to the Tribunal.

The Essential Evidence & Submission of Both Parties:

Mr. Aidan Boland on behalf of the ratepayer described the premises and set out its accommodation and valuation history and commented thereon. He gave details of the floor areas and set out his opinion of net annual value and rateable valuation as follows:-

Floor	Use	Sq.Ft.	IR£psf	Total
Ground	Retail	674	14.00	9,436
	Office	98	5.00	490
	Stockroom	148	4.00	<u>592</u>
				10,518

Say IR£10,500pa @ 0.63% = RV £66.

Mr. Boland made reference to three properties in Oliver Plunkett Street as supporting evidence, with details thereof being contained in Appendix 1 to this judgement.

Mr. Terry Dineen on behalf of the Commissioner agreed with the valuation history, location and description of the property as given and furnished a table (see Appendix 2) of comparisons with other shops in Oliver Plunkett Street in support of his assessment of rateable valuation on the subject premises. His opinion of rateable valuation on the subject premises was as follows:-

Valuation

Gross Frontage: 15.75 feet
 Zone A: 15.75 x 20 square feet

Zone A:	315 sq.ft.	@ £27.00	=	£ 8,505
Zone B:	316 sq.ft.	@ £13.50	=	£ 4,252
Remainder:	332 sq.ft.	@ £ 6.00=		<u>£ 2,241</u>
NAV:			=	£14,998
RV:		@ 0.63% =		£94.48
		Say	=	£90.00

Oral Hearing/Determination of this Tribunal:

This appeal proceeded by way of an oral hearing which took place in Cork in the presence of the said Mr. Aidan Boland, FRICS FSCS, Regional Director of Lisney, Cork who appeared on behalf of the appellant and Mr. Terry Dineen, District Valuer who appeared on behalf of the Respondent. Having taken the oath both valuers adopted as their evidence in chief their respective written submissions which previously had been exchanged between them and received by the Tribunal. From the evidence so tendered the following relevant facts emerged as being material to this appeal, and upon which facts the following findings were so made by the Tribunal:

- (1) It is of the first importance that in any appeal before this Tribunal both the appellant and the respondent, should engage in consultation and discussion with a view to resolving between them as many issues as possible. In particular this Tribunal has great difficulty in understanding how areas and measurements cannot be precisely ascertained and thereafter cannot be agreed between the parties. It is quite impossible to resolve a difference in areas without the members physically inspecting the subject hereditament and almost physically carrying out the measurements themselves. This the Tribunal cannot and will not do and accordingly they urge both parties to make every effort to overcome any differences with regard to areas, measurements etc.
- (2) It would be quite helpful to this Tribunal where possible and where beneficial that photographs be produced in order to supplement location maps.
- (3) In cases where the method of valuation is based on comparable properties it is not enough for one or both parties to place before this Tribunal evidence which is

incomplete or, even unintentionally, selective. Evidence of comparisons, which are relevant, should be available even if in the opinion of one party such evidence is not highly advantageous to his or her case.

- (4) During the course of evidence reference was made to a publication issued by Lisney's dealing with that firm's analysis of Cork city centre rents in 1990. Contained therein was a map entitled "The Retail Map of Standard Retail Units of about 800 sq.ft." and this showed, in respect of that part of Oliver Plunkett Street in which the subject property is located, rents of about £30 to £35 psf which are equivalent to a Zone A rent of £40 to £48. Mr. Dineen on behalf of the Commissioner suggested that this was persuasive evidence against any contrary view which Mr. Boland might now advance on behalf of his client. In effect that it might be binding on him. On the other hand Mr. Boland's view was that effectively he could disregard the same as the purpose, direction and focus of the analysis was quite unrelated to and quite distinct from rating and rateable valuation. The Tribunal is of the opinion that whilst such a publication could not be binding on the authors nevertheless where this comes from the firm representing the appellant and where it specifically deals with rent and is therefore highly relevant to NAV, the authors will not be allowed to disregard it when the particular facts of the case might induce it. Such a document is evidence, is relevant and material and in the particular circumstances of any given case its weight is one to be considered and applied by the relevant Tribunal.

- (5) This Tribunal is satisfied that Oliver Plunkett Street is probably the second most important commercial street in Cork city and that even if there is room for debate in this there is no doubt in our minds that the portion of Oliver Plunkett Street in which No. 32 is located is by far the best part of that commercial area and is more preferable and advantageous than the area from Wintrop Street east ward or from Princes Street west ward.

- (6) As above stated Mr. Dineen on behalf of the Commissioner gave evidence that the total area in question was about 960 sq.ft. and that in his opinion it would be appropriate to approach the valuation thereof on the basis of an area of 315 sq.ft. being applicable to both Zone A & B. The remainder therefore was about 332 sq.ft.

At a rateable valuation of £90 this devalues as £25.70 psf in a Zone A. The corresponding rate for a Zone B would be £12.35 with £6 being placed on the remainder. In support of this he has referred to several comparisons which are

hereinafter produced in tabular form. In our opinion the most important comparison is that of premises no. 33.33a which is immediately adjacent to the subject property. The occupier is identified as Grace Greek t/a Guess. Comparisons B, C & D, being premises numbered respectively 23, 22 and 21 and being occupied respectively by Paint Paper Limited, Bagmania Limited and Peter Curneen are used for a specialized type of activity and accordingly whilst offering support for the Zone A rate suggested by Mr. Dineen are not as relevant or as pertinent as premises No. 33.33a. The fifth comparison namely No. 98 can be distinguished in that the NAV used for the purposes of obtaining the RV was based on the entire of that building and not simply on the ground floor thereof. Distortions consequently arise.

(7) Whilst taking issue with much of what Mr. Dineen said and whilst disputing the significance or applicability thereof Mr. Boland has not satisfied us that the rents suggested by the Commissioner are in the circumstances excessively high. We believe, as above indicated, that the comparisons, as least in broad terms, support such a rent as of course does the 1990 analysis. In the circumstances we believe that a rate of £25.70 psf on Zone A is reasonable and is justified and accordingly we believe that the RV of £90 is reasonable. In the circumstances the appeal fails.