

Appeal No. VA97/2/014

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

**John McKay t/a "No. 7 Quick"**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Shop at Map Reference 20D/29 Janelle Shopping Centre, Ward: Finglas South, County Borough of Dublin

Quantum - Units in a shopping centre

**B E F O R E**

**Con Guiney - Barrister at Law**

**Deputy Chairman**

**Finian Brannigan - Solicitor**

**Member**

**George McDonnell - F.C.A.**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 30TH DAY OF MARCH, 1999**

By Notice of Appeal dated the 17th day of April 1997, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £60 on the above described hereditament.

The Grounds of Appeal as set out in the said Notice of Appeal are that;

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

The relevant valuation history is that the subject premises was revised in October 1995 and a valuation of £60.00 fixed thereon.

The appellant appealed on 16<sup>th</sup> day of November 1995 against this decision. On 25<sup>th</sup> day of March 1997 the Commissioner issued his decision leaving the rateable valuation unchanged.

A written submission on behalf of the respondent prepared by Mr. Colman Forkin B.Sc. [Surveying] ARICS ASCS, a Valuer with 17 years experience in the Valuation Office, was received by the Tribunal on 19<sup>th</sup> November 1997.

The written submission described the property as a newsagency/confectionery and kiosk.

The basis for the rateable valuation as described in the written submission was as follows;

150 sq.ft. @ £60.00 p.s.f.	=	£9,000
9,000 p.a. x 0.63%	=	£56.70
Say	=	£60.00

The written submission contained four comparisons all located in the Janelle Shopping Centre in which the subject property is also located.

A further written submission on behalf of the respondent was received by the Tribunal on 11<sup>th</sup> day of March 1998. The only additional information contained in this submission was the purchase price of the subject property and also an amended description of Mr. Forkin's second comparison as M7.

A written submission on behalf of the appellant prepared by Ms. Sheelagh O' Buachalla B.A., an associate of the Society of Chartered Surveyors and a director of Donal O' Buachalla & Company Limited was received by the Tribunal on 18<sup>th</sup> day of November 1997.

A further written submission prepared by Ms. O' Buachalla was received by the Tribunal on 9<sup>th</sup> day of March 1998.

This latter written submission of Ms. O’Buachalla contained five comparisons and contended that a fair rateable valuation for the subject hereditament would be £20.00.

The oral hearing took place at the Tribunal’s offices in Dublin on 20<sup>th</sup> day of March 1998.

At the outset of the hearing Ms. O’Buachalla stated that she was not relying on her written submission, which the Tribunal had received on 18<sup>th</sup> day of November 1997.

Ms. O’Buachalla put in evidence with the agreement of Mr. Forkin a map of the Janelle Shopping Centre and an album of photographs of certain units within the shopping centre.

In her sworn testimony Ms. O’Buachalla adopted her written submission received by the Tribunal on 9<sup>th</sup> March 1998 as her evidence to the Tribunal.

Ms. O’Buachalla said the Janelle shopping centre was opened in 1987 when the valuations were made. The shopping centre was revised in 1990 when the valuations were reduced. Due to a misunderstanding the subject property and the subject matter of the immediately succeeding appeal VA97/2/015, John McKay “No. 7 Newsagent” were not included in that revision.

Ms. O’Buachalla referred to Appendix One in her précis, which contained a copy document, prepared by Hamilton Osborne King, which gave details of eight properties in the shopping centre available for letting in November 1995. Since that date only one of these units together with the department store has been let. Ms. O’Buachalla stated that at the present time there is in total ten units vacant in the centre.

In further evidence Ms. O’Buachalla stated that any of the units which had been re-let after the original letting in 1987 had been let at a lower rent than that fixed in 1987. Ms. O’Buachalla said that the vacant units at the centre had created low morale.

The centre had now been acquired by a new developer who had applied for planning permission to improve the Centre.

Ms. O’Buachalla stated that at the outset the centre had traded well for a few years. This had been due in a large part to the presence in the centre of a shop called “Price Wise”. This shop sold good clothes at reasonable prices. This shop had ceased to trade and this was to the detriment of the centre.

Again in recent years city centre retailers had launched successful promotions to entice local shoppers into the city centre. Also the shopping facilities in Finglas had improved in recent times with many well-known outlets there. There was also a problem with access to the centre by car as it was situated some distance from the main road.

Ms. O’Buachalla said the central problem with the centre was that it did not have a sufficient mix of retailers in it. She gave as an example of this the absence of a children’s clothes shop in the centre. This meant that it did not benefit from the substantial business done at First Communion and Confirmation.

Ms. O’Buachalla stated that the only major attraction in the centre was the Crazy Prices shop. Peter Marks, the hairdresser, with a double fronted unit and a good location had departed the centre.

Ms. O’Buachalla said that most of the units in the centre faced onto the mall and had the benefit of the same pedestrian traffic. Therefore all the units should be valued at an equivalent rate.

Ms. O’Buachalla said the Omni Park Shopping Centre had opened with more outlets there. She drew a parallel with the Square shopping centre in Tallaght and the Kilnamanagh Shopping centre. In that instance her firm had secured a 20% reduction in valuations at Kilnamanagh to compensate for the effect of the Square shopping centre.

In her evidence Ms. O’Buachalla then dealt with her comparisons. She said she had looked at all of the kiosks in the centre. Three of them were freehold (M1, M3 & M4) and there was no rent available for them.

Ms. O’Buachalla referred to Unit 28 (M2). This had an area of 237 sq.ft. and a rateable valuation of £48. The N.A.V. of £7,615 devalues at £32 p.s.f. This unit is larger than the

subject and has a single frontage. The subject has many sides and problems of access are thereby created.

The next comparison was Unit 32. This was originally one unit but has now been subdivided into two units. 32A was now vacant. The area was 173 sq.ft. with a rateable valuation of £32.00. The N.A.V. of £5,079 devalues at £29 p.s.f.

32B was a larger unit than the subject at 213 sq.ft. and a rateable valuation of £32.00. The N.A.V. of £5,079 devalues at £24.00 p.s.f.

Ms. O’Buachalla’s next comparison was M6, the heel bar. This unit was on its own in the corner adjacent to the entrance to the supermarket. It had an area of 183 sq.ft. and a rateable valuation of £39. The N.A.V. of £6,190 devalues at £34 p.s.f.

The last comparison was unit 31, M7. This was Toolin Travel, which was beside the subject. It had an area of 97 sq.ft. and a rateable valuation of £46. The N.A.V. of £6,000 devalued at £62 p.s.f.

Ms. O’Buachalla said that the kiosks in the centre were located in blocks, mostly blocks of two units. The subject was one of three kiosks in a block. This created an irregular configuration and did not present a good profile.

Ms. O’Buachalla said her preferred comparisons were units, 32A and 32B, which had been mostly recently revised. She had based her valuations on these comparisons and had deducted 20% for a poor trading environment.

She had calculated her valuation as follows;

150 sq.ft. @ £26.50	=	£3,825
Less 20%	=	<u>£ 795</u>
		£3,030 N.A.V.
@ 0.63%	=	£20.00 R.V.

Under cross-examination by Mr. Forkin, Ms. O’Buachalla was asked why she did not compare the subject with another freehold kiosk like M4. In reply Ms. O’Buachalla said she had not used a freehold comparison because she did not know whether a passing rent had been used in the calculation of its N.A.V. There were marked differentials in the rates applied to kiosks. Some N.A.V.s were lower than rents while other N.A.V.s were higher than rents.

Mr. Forkin put it to Ms. O’Buachalla that in making a 20% reduction for poor trading she was seeking a double deduction as the poor trading environment had already been reflected in the letting rent.

Ms. O’Buachalla said she had been following the Kilnamanagh precedent. Under further cross-examination Ms. O’Buachalla admitted that a 20% reduction in values had not been applied in the Janelle Shopping Centre.

In his sworn testimony Mr. Forkin adopted his written submissions as his evidence to the Tribunal.

He stated that the subject property had the best location of any kiosk in the centre.

Three of Mr. Forkin’s four comparisons were shared with Ms. O’Buachalla.

Mr. Forkin said that Toolin Travel, which was behind the subject, was held on foot of a lease. It had been valued in 1990 and there had been no appeal. This was Mr. Forkin’s preferred comparison.

Mr. Forkin did not consider that units 32A and 32B were good comparisons as they were in an inferior location to the subject.

Mr. Forkin said he had put a lower rate p.s.f. on his first comparison, Cregan & Forte. He had put £50 p.s.f. on 162 sq.ft. here because it had an inferior location to the subject.

The Tribunal has considered the written submissions and the evidence offered by both the appellant and the respondent.

The Tribunal finds on the basis of the evidence offered to it that the poor trading environment of the centre would influence the hypothetical tenant in the rent that he would be willing to pay for the subject property.

The Tribunal further finds that M6 (the heel bar) is the most appropriate comparison. This unit has a value of £34 p.s.f. The subject unit is smaller than M6 and the Tribunal considers that a value of £35 p.s.f. is appropriate for the subject.

150 sq.ft. @ £35 p.s.f.	=	£5,250
@ 0.63%	=	£33.08
Say	=	£33.00

The Tribunal therefore determines the rateable valuation of the subject hereditament to be £33.00.