

Appeal No. VA97/6/012

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

Ken Dursley

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop at Map Reference 10a.11.12.13d/10, Townland: Roosky (Diamond), UD: Monaghan,
Co. Monaghan
Quantum

B E F O R E

Con Guiney - Barrister at Law

Deputy Chairman

Marie Connellan - Solicitor

Member

Michael Coghlan - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 17TH DAY OF JULY, 1998

By Notice of Appeal dated the 3rd day of October 1997 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £30 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 and bad in law."

The relevant valuation history is that the subject premises was first valued as part of a new shopping mall and office development at 1994/2. A rateable valuation of £30 was placed on the property. Pursuant to an appeal this rateable valuation was left unchanged by the Commissioner of Valuation.

A written submission on behalf of the appellant prepared by Mr. Alan McMillan ASCS ARICS MIAVI of Donal O’Buachalla and Company Limited was received by the Tribunal on 23rd March 1998.

According to the written submission the subject premises is located in the “Diamond Centre” in the centre of Monaghan town. This centre comprises some eight retail units. These units form a mall leading from the Diamond to the rear car park. In this rear area is the Diamond cinema, the ground floor of which incorporates the subject unit. This building is removed a short distance from the “mall” and faces onto the car park.

The written submission stated that the subject premises was incorporated into the ground floor of a modern purpose built cinema and is of standard reinforced concrete framework with concrete block infill walls together with concrete floors and roof/ceiling. The unit which is of irregular shape extends to approximately 440 sq. ft. The written submission further stated that in 1994 agreement was reached for a long term letting at a rental equivalent to £100 per week.

Mr. McMillan stated in his written submission that the existing R.V. of £30 indicates a N.A.V. of £6,000 i.e. the Commissioner estimates the rental value of the property on the statutory date of November 1988 to be £6,000. This exceeds the passing rent in 1994 and Mr. McMillan submitted the R.V. was excessive.

In considering his opinion of N.A.V. and rateable valuation Mr. McMillan had regard to the passing rent as primary evidence.

Mr. McMillan submitted that a reasonable estimate of N.A.V. and R.V. is £4,800 and £24 respectively.

A written submission on behalf of the respondent prepared by Mr. Patrick McMorrow, B.Ag.Sc. (Econ) G.Dip P and D Economics, who is a valuer with 17 years experience in the Valuation Office was received by the Tribunal on 27th March 1998.

Mr. McMorrow's written submission stated that the net retail area in the subject premises amounted to 441 sq. ft. The submission described the tenure of the property as leasehold, 25 years from August 1994 with 5 year rent reviews @ £100 per week. This rent according to the written submission was a "shell rent". The tenant had to fit out the premises involving plastering walls, installing ceilings and shop windows and getting all services connected including E.S.B. and telephone.

The written submission sets out two methods as a basis for the R.V.

1. Rent Passing (1994):

Rent	£5,200
Add for Tenant's Improvements:	
£14,000 @ 12.5% Return p.a.	<u>£1,750</u>
	£6,950
Adjust to 1988	
@ 100/115	<u>£6,043</u>

2. Comparative Method:

Retail Area 441 sq.ft. @ £13.50 sq.ft.	£5,953
	N.A.V. £6,000
N.A.V. £6,000 @ 0.5% = R.V.	<u>£ 30.00</u>

Mr. McMorrow's written submission contained a table of six comparisons which is annexed to this judgment as appendix one.

The appeal proceeded by way of an oral hearing which took place on the 3rd day of April 1998 in the Circuit Court Offices, The Courthouse, Co. Monaghan. Mr. Alan McMillan appeared on behalf of the appellant. Mr. Pat McMorrow appeared on behalf of the Commissioner of Valuation. In accordance with practice and as required by the rules of this Tribunal the parties had prior to commencement of the hearing exchanged précis of evidence and submitted same to us. Having taken the oath each Valuer adopted as his evidence in chief his précis.

In his sworn testimony Mr. McMillan dealt in greater detail with the matters contained in his written submission. He disputed the amount and the effect of the figure of £14,000 contained in the Respondent's précis for tenant's improvements.

In his sworn testimony Mr. McMorrow dealt in greater detail with his comparisons. He defended his approach to the tenants improvements and stated that 12.5% return on these was reasonable.

By way of a preliminary observation, the Tribunal notes that the Valuation Office has placed a value of £30 on this hereditament and the Appellant in his submissions is seeking a rateable valuation of £24. This is a difference of £6. The Tribunal has observed before that an appeal before it in respect of such a small difference in rateable valuation, seems a waste of resources on behalf of the Appellant, the Valuation Office and the Tribunal. The Tribunal will perform its duty and adjudicate on this matter, but the Tribunal considers that in matters like this, that common sense should have prevailed between the appellant and the respondent.

The Tribunal has considered the written submissions and evidence produced by both parties and the Tribunal has decided that the best evidence in this case is to start at the passing rent for the subject premises in 1994 which amounted to £5,200 per annum. The Tribunal has

evidence that the hereditament was not in existence in 1988 and to a certain extent it is a difficult exercise to try to go back to 1988 values, using statistical indices in a rural town.

The Tribunal has decided that it will adopt this passing rent of £5,200 per annum as a starting point only and the Tribunal will also take into account the evidence in relation to tenant's improvements. However the evidence about this from both sides was contradictory. The Tribunal has decided that some value must be given to these tenant's improvements but unfortunately due to the conflicting evidence it is not possible to quantify this. Therefore the Tribunal has decided that in arriving at a rateable valuation it will apply the appropriate fraction of 0.5% to the market rent of £5,200 in 1994 which gives an R.V. of £26. The Tribunal therefore determines that the rateable valuation of the subject hereditament is £26.