

Appeal No. VA14/5/969

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL  
AN tACHT LUACHÁLA, 2001  
VALUATION ACT, 2001**

**Supermac's**

**APPELLANT**

**And**

**Commissioner of Valuation**

**RESPONDENT**

**In Relation to the Issue of Quantum of Valuation in Respect of:**

Property No. 1277240, Retail (Shops), 26-27 Essex Street, Temple Bar, County Borough of Dublin.

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 27<sup>TH</sup> DAY OF SEPTEMBER, 2016**

BEFORE:

**Rory Lavelle – MA, FRICS, FSCSI, ACI Arb** - Deputy Chairperson

**Frank Walsh – QFA, Valuer** - Member

**Orla Coyne - Solicitor** - Member

By Notice of Appeal received on the 3<sup>rd</sup> day of September, 2014 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a net annual value of €48,300 (amended to €43,500 in the precis of evidence) on the above described relevant property on the grounds as set out in the Notice of Appeal as follows:

*"Pursuant to S.35 (1) & (2) and 48 & 49 – the valuation is incorrect and does not reflect the character, specification, size and use of the property."*

*"The appellant reserved the right to contend that a valuation is bad in law and in the event that an error in law is identified in the course of appeal."*

The Tribunal, having examined the particulars of the property the subject of this appeal; having confirmed its valuation history; having examined and considered the written evidence and having heard the oral evidence on the 17<sup>th</sup> of May 2016 and the 21<sup>st</sup> of June 2016 adduced before us by Mr Robert McHugh of DTZ Sherry Fitzgerald on behalf of the Appellant, who contended for a net annual value of €26,000 and Ms Clare Callan on behalf of the Respondent to the appeal,

**DETERMINES**

That the net annual value of the subject property be as set out below:

Level	Use	Area (sq.m)	€/per sq.m.	NAV
0	Retail Zone A	53.00	€750.00	€39,750
0	Retail Zone B	21.60	€375.00	€ 8,100
0	Store	7.00	€ 75.00	<u>€ 525</u>
			Total	€48,375
	Less 10%	Frontage to Depth		€ 4,837
			Total	€43,538
			<b>Say</b>	<b>€43,500</b>

**The reasoning being:**

**The key points of contention between the parties were:**

- The rateable value does not adequately reflect the physical attributes of the building in terms of its poor frontage to depth ratio.
- The subject property located on Essex Street East, is removed from the pedestrian access roads to the main Temple Bar Square.
- The Valuation office has applied a Zone A rate of €750.00 per sq m to the subject property in line with the rate applied to those retail units overlooking Temple Bar Square.

The Appellant argued for multiple discounts from the prime Zone A rate of €750 per sq m to reflect:

- Poor frontage to depth ratio
- Lack of dual frontage
- Subject is located on the Western periphery of the Temple Bar Quarter

- A Zone A rate of €400 per sq m ought to be applied to the subject property

### **Findings:**

The task of the Tribunal is to determine a fair and equitable Valuation on the subject property in compliance with Section 48 of the Valuation Act 2001.

*‘Section 48 clause 3 of the Valuation Act, 2001 defines “net annual value” in relation to a property as the rent for which, one year with another, the property might, in its actual state, be reasonably expected to let from year to year, on the assumption that the probable average annual cost of repairs, insurance and other expenses (if any) that would be necessary to maintain the property in that state, and all rates and other taxes and charges (if any) payable by or under any enactment in respect of the property are borne by Tenant’.*

In the absence of rental evidence from the Appellant and the fact that the rental evidence as supplied by the Respondent was shown at the hearing to be unreliable. The Tribunal in this instance has put more weight on the evidence of the emerging *Tone of the List*.

The Tribunal acknowledges the fact that the Appellants comparison Property No 852988 – McDonalds, 40/42 Temple Bar Square, is a superior retail unit to the subject property, however there are 53 properties valued in the vicinity of the subject at a Zone A rate of €750.00 per sq m.

With regard to the dual frontage, all of the Respondents comparators are similar to the subject property and do not have the benefit of dual frontage, accordingly the Tribunal is satisfied that an allowance for the subject property would not be justified.

The Tribunal acknowledges the fact that the witness for the Respondent Ms Claire Collins BSC (Surv), MSc Planning and Development, altered her option of value in line with the retail zoning guidelines and applied an allowance of 10% to reflect the configuration of the subject property.

The Tribunal is of the opinion that more weight should be accredited to the values of the Respondents comparison properties due to their close proximity to the subject property and particularly those located on Essex Street East.

And the Tribunal so determines.