

Status of Judgment: Distributed

Appeal No. VA01/1/022

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

Quish's Supervalu
APPELLANT

and

Commissioner of Valuation
RESPONDENT

RE: Supermarket & Land at Map Reference 58 Main Street, Tramore West, UD:
Waterford1, Co. Waterford.

B E F O R E

Tim Cotter - Valuer

Deputy Chairman

Maurice Ahern - Valuer

Member

Finian Brannigan - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 26TH DAY OF FEBRUARY, 2002

By Notice of Appeal dated the 20th day of April 2001, the appellant appealed against the determination of the Commissioner of Valuation in fixing a Rateable Valuation of €431.71 (£340.00) (Buildings), on the above described hereditament. The grounds of appeal were set out in the Notice of Appeal as follows:

"(1) the valuation is excessive and inequitable.

(2) the valuation is bad in law."

The oral hearing took place on the 14 November 2001, in Dublin. Ms Sheelagh O Buachalla ASCS, a Director of GVA Donal O Buachalla appeared for the appellant and Mr Phil Colgan appeared for the Respondent. Both valuers adopted their written submissions as their evidence in chief to the Tribunal, which submissions had previously been exchanged between them.

The Property

The property comprises a supermarket premises located on a hill between Main Street and Priest's Road in Tramore. It has an entrance onto Main Street but its main entrance is at the rear of the premises from a public car park, used by other units in the Shopping Centre. Access to the front entrance of the supermarket is via a long corridor which is sloped to take account of the different floor levels i.e. Main Street is at a lower level than the rear of the premises which fronts onto the car park at the rear.

Appellant's Case

The appellant stated that the premises was revised in 1992 and an agreement reached based on the NAVs determined on supermarkets in the area. She said that the NAV was agreed as follows:

“NAV €67,938.6 (£53,506) @ .63% = RV €427.90 (£337) (Say RV £340).”

Ms O Buachalla argued that there has been no material change to the premises since 1990 to warrant a change in the NAV as agreed in 1990.

She cited the cases of AIB - VA92/3/007 and TSB – VA92/6/017 where the Tribunal determined that where an NAV has been agreed and an incorrect fraction applied, the correct fraction must be applied to the agreed NAV.

In the subject case, the ratio applied in the Tramore area is .5%, however the subject had been valued at the ratio of .63% and the correct ratio should now be applied to the agreed NAV.

A fair valuation was assessed as €67,930.99 (£53,500) at .5% = RV €342.83 (£270)

Respondent's Evidence

Mr Colgan said in evidence that the market situation in Tramore had improved and that other units in the Shopping Centre were now occupied and that the Centre was trading very well. The NAV of the property had increased in these circumstances. He said that he was also taking into account the valuations on other supermarkets in similar locations.

On this basis he assessed the rateable valuation as follows:

“Supermarket /Lobbies: 1371.5 m²@ €4.65 (£43.04) = €74,950
 399.4 m² @ €26.40 (£20.79) = €10,546.44
 105m² @ €6.83 (£5.38) = €717.15
 NAV say €86,342 (£68,000) @ .5% = RV €431.71 (£340).”

Findings

Having carefully considered all the evidence the Tribunal makes the following findings:

No material changes have been made to the property since the 1990/92 Revision and appeal. The car park is used by the other shop units and therefore not exclusively by the subject property.

No comparisons in the immediate area were offered to the Tribunal that would have assisted the Tribunal with its decision.

No comparisons on the other units in the shopping centre were offered by either party.

It is accepted that access to the supermarket is via a long corridor, which is sloped from the Main Street.

Determination

The NAV of this type of property is generally calculated on the rent a hypothetical tenant would pay or on actual rent. It is not calculated on the turnover of the particular business.

The Tribunal is grateful to both parties for their efforts to respond by way of research in determining the NAV/RV of the subject property.

Having carefully considered all the evidence and arguments adduced at this appeal the Tribunal is of the opinion that as the incorrect fraction for the area was applied, the NAV of £53,500.00 as agreed in the 1990/2 appeal should stand and applying the correct fraction of 0.5% the Tribunal determines an RV on the subject premises to be €342.83 say €343 (£270.00).

The Tribunal wishes to draw the attention of the parties once again to the provisions in its Rules that all evidence in each case should be presented in the précis of evidence prior to the hearing and not on the day. The following Rule in particular should be noted:

Rule 7 (1) of (Appeals) Rules 1988 states that, "the Commissioner and any other party shall give a summary of evidence proposed to be adduced to the Tribunal and there shall be an exchange of summaries between parties (including any comparisons to be relied upon) in advance of the hearing.

(2) Any party to an appeal shall give to the Tribunal any document or information in his possession or procurement which the Tribunal considers necessary for the purpose of determining the appeal.

(3) Where a person neglects or refuses to give to the Tribunal any such document or information within such a period as may at any time be specified by the Tribunal, the Tribunal may determine the appeal without the document or information".