

Appeal No. VA01/3/071

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

McDonalds Restaurants of Ireland Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Restaurant / Cafe at Map reference 2-14 / Unit A, New Street Upper, Ward: Kilkenny No. 1 Urban, County Borough of Kilkenny

B E F O R E

Fred Devlin - FSCS.FRICS

Deputy Chairperson

Maurice Ahern - Valuer

Member

John Kerr - FIAVI

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 18TH DAY OF DECEMBER, 2002

By Notice of Appeal dated the 19th October 2001, the appellant appeal against the determination of the Commissioner of Valuation in fixing a rateable valuation of €260.30 on the above described relevant property.

The grounds of appeal are that:

"Rateable Valuation is excessive and inequitable having regard to the net annual value of the subject property and the tone of the list and is bad in law."

1. The appeal proceeded by way of an oral hearing which took place in the offices of the Valuation Tribunal, Ormond House, on the 24th April 2002. The appellant was represented by Mr. Adrian Power Kelly FRICS, FSCS, ACI.Arb of Harrington Bannon & Company, and the respondent by Mr. Denis Maher MRICS., MSCS., a District Valuer in the Valuation Office.
2. In accordance with the rules of the Tribunal the valuers exchanged written précis of evidence and valuations, copies of which were also forwarded to the Tribunal and subsequently received into evidence at the oral hearing.

3. The Property.

The relevant property comprises a fast food restaurant at ground floor level in a newly built two story development on the south side of Upper New Street at its intersection with Upper Patrick Street and within the townland of Cashel about 1 kilometre from Kilkenny City Centre. The surrounding area is predominantly residential in character with some secondary commercial premises in the immediate vicinity.

The development of which the relevant property forms part, comprises the subject property, a small supermarket, a licensed premises and offices overhead with common car parking facilities at the rear. The relevant property is occupied by the Appellant, McDonalds Restaurants Ireland Ltd. under a 25 year Lease from September 2000 subject to an initial yearly rent of €76,184 with Rent Reviews at 5 year intervals. The area of the restaurant according to Mr. Power-Kelly is 399.8m² and 396.5m² according to Mr. Maher. The Tribunal proposes to take the area to be 398m² for the purposes of this appeal.

4. Valuation History

The subject was valued at 2000/4 revision and assessed at a rateable valuation of €260.30. No change was made at first appeal stage and it is against this determination that the appeal to this Tribunal now lies.

5. The Appellant's Evidence

Mr. Power-Kelly having taken the oath adopted his précis and valuation which had previously been received by the Tribunal as his evidence in chief. In evidence Mr. Power-Kelly contended for a rateable valuation of €160 calculated as set out below.

Existing Rateable Valuation

<u>Overall Basis</u>	<u>Sq. M.</u>	<u>€per Sq. M.</u>	<u>NAV</u>	<u>RV</u>	
Ground Floor	399.8	€130.21	€52,059	€260.30	(IR£205.00)
<u>Zoning Basis</u>	<u>Sq. M.</u>	<u>€per Sq. M.</u>	<u>NAV</u>	<u>RV</u>	
Zone A	70.5	€355.35	€25,052		
Zone B	69.7	€177.67	€12,383		
Zone C	70.8	€88.83	€6,289		
Remainder	188.8	€44.14	€8,335		
Total	399.8	€130.21	€52,059	€260.30	(IR£205.00)

By reference to Passing Rent

NAV (@ RV€260.30)	Passing Rent (Fixed Sept. 2000):	NAV/Rent
€ 52,059	€ 76,184	68.3%

Proposed Rateable Valuation

<u>Overall Basis</u>	<u>Sq. M.</u>	<u>€per Sq. M.</u>	<u>NAV</u>	<u>RV</u>	
Ground Floor	399.8	€82.00	€32,619	€163.91	
			Say	€160.00	(IR£126.01)
<u>Zoning Basis</u>	<u>Sq. M.</u>	<u>€per Sq. M.</u>	<u>NAV</u>	<u>RV</u>	
Zone A	70.5	€222.00	€15,651		
Zone B	69.7	€110.00	€7,667		
Zone C	70.8	€55.00	€3,894		
Reminder	188.8	€27.50	€5,192		
Total	399.8	€81.05	€32,404	€162.02	
			Say	€160.00	(IR£126.01)

By reference to Passing Rent

NAV (@RV€260.30)	Passing Rent (Fixed Sept. 2000):	NAV/Rent
€ 32,000	€ 76,184	42.0%

In support of his opinion of Net Annual Value, Mr. Power-Kelly introduced five comparisons as set out in Appendix 1 attached to this judgment.

Mr. Power-Kelly in evidence said that in arriving at his opinion of Net Annual Value he had regard to the development's secondary location and low level of pedestrian and traffic flow.

Whilst he agreed with Mr. Maher that the property benefited from its proximity to schools in the immediate area, this was not sufficient to offset the lack of profile and generally poor trading location. Mr. Power-Kelly said that the lack of

on-street car parking in the vicinity was a major draw back. The car park at the rear he said was of limited value due to the fact that it was used mainly by commuters during the working day. Under cross examination by Mr. Maher, Mr. Power-Kelly said that his comparisons numbers 1 and 2 were the most relevant. With regard to his other comparisons Mr. Power-Kelly said that these were also helpful in relation to location and general levels of assessment and supported his opinion of net annual value. In regard to his second method of valuation this was he said of equal value to his first, particularly when comparing the net annual values of the subject and his number one comparison i.e. the adjoining unit occupied by Ned Naddy (T/A Gala).

6. The Respondent's evidence.

Mr. Maher having taken the oath adopted his précis and valuation which had previously been received by the Tribunal as his evidence in chief. In his evidence Mr. Maher contended for a rateable valuation of €250.00 calculated as set out below.

396m sq. @ €126.97per m²

Rateable Valuation = €250

In support of his valuation Mr. Maher introduced five comparisons three of which were fast food restaurants located in Roscrea, Newbridge and Portlaois. His comparisons are attached at appendix two. Mr. Maher shared Mr. Power-Kelly's opinion that the location was secondary from a commercial point of view. However in his opinion the property occupied a prominent location close to a busy road junction and had the benefit of off-street car parking. These he said were important characteristics and were reflected in the rent being paid under the lease.

Mr. Maher said his comparisons numbers 1 and 2 were the most relevant whilst the others were introduced to show the levels of value attributed to fast food restaurants in towns of a size somewhat similar to Kilkenny.

In relation to Mr. Power-Kelly's evidence Mr. Maher was of the opinion that his comparison number 2 was not relevant as it was a departmental store with retail space at ground and first floor levels. Mr. Maher also expressed the view that zoning was not the appropriate method for valuing fast food restaurants or supermarkets in secondary locations such as that occupied by the subject.

Findings

1. It is common case that the relevant property occupies a secondary trading location in what is a predominantly residential area.
2. Have regard to its location the Tribunal does not consider City Centre properties such as Winstons and Supermac to be relevant comparisons nor are comparisons drawn from other towns.
3. The valuers in arriving at their opinions of Net Annual Value use different valuation methods. Mr. Power-Kelly used the zoning method and Mr. Maher the overall basis. Although Mr. Maher considered Mr. Power-Kelly's zoning method to be inappropriate he did not challenge his calculations either in regard to the relevant property or any of his comparisons. As a general statement this Tribunal sees considerable merit in the use of zoning methods for retail units in town centre locations or in shopping centres where there are a number of comparisons. However it is not the function of this Tribunal to direct valuers as to how they are to approach their task but it would be helpful if the valuation forum would consider this matter in some detail and set down guidelines for the valuation of retail units of all types and sizes and locations.
4. Of all the comparisons introduced, the Tribunal attaches most weight to the adjoining unit i.e. Unit B, occupied by Ned Naddy (trading as Gala). This is a common comparison and forms part of the same scheme of development. It is however somewhat smaller than the subject and irregular in configuration with a street frontage of only 4.25m.
5. Unit B and the subject were let on the open market at around the same date, and it is therefore reasonable to assume that the rents achieved represent the differences in size, configuration and user. In this regard the net annual value of Unit B is approximately 39% of the initial rental value whilst it is 68.3% in respect of the subject. No cogent reason was advanced for this significant differential but presumably it is partly due to the higher level of fit out required for the operation of a fast food restaurant and the premium value attached to this user.
6. The other comparisons introduced by the parties particularly the unit in New Street however are also helpful although they are considerably smaller than the subject.

Determination

Having regard to the foregoing and all the evidence offered and argument adduced, the Tribunal determines that the Net Annual Value of the subject is €42,000 equivalent to approximately 55% of the initial rent payable under the lease. The Tribunal makes no judgement as to which of the methods of valuation is appropriate but on a zoning basis the Net Annual Value so determined devalues at approximately €130 per Sq.M. (Zone A).

The Tribunal therefore determines the RV as follows:

$$\text{NAV } \text{€}42,000 @ 0.5\% \quad = \text{RV } \text{€}10$$