

Appeal No. VA02/1/002

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

**Andrew Corkery t/a Right Price Tiles**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Retail Warehouse at Map Reference; Units 5, 6. Westgate Retail Park, Ward:  
Kingsmeadow, UD:South, County Borough of Waterford.

**B E F O R E**

**Tim Cotter - Valuer**

**Deputy Chairperson**

**Frank O'Donnell - B.Agr.Sc. FIAVI.**

**Member**

**Brian Larkin - Barrister**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 23RD DAY OF OCTOBER, 2002**

By Notice of Appeal dated the 18th day of December, 2001, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €215.85 (£170) on the relevant property described above. The grounds of appeal as set out in the Notice of Appeal were that "the assessment is excessive, inequitable and bad in law having regard to the provisions of the Valuation Acts and on other grounds".

The appeal proceeded by way of an oral hearing that took place in the Circuit Court, Catherine Street, Waterford on the 19<sup>th</sup> July 2002. Mr Eamonn O’Kennedy B. Comm., Principal, O’Kennedy & Co. Valuation and Rating Consultants appeared on behalf of the appellant. Mr. John Smiley, District Valuer appeared on behalf of the Respondent. In accordance with the Rules of the Tribunal, the parties had prior to the commencement of the hearing, exchanged their précis of evidence and submitted the same to this Tribunal. At the oral hearing both parties having taken the oath, adopted their précis as being their evidence in chief. Submissions were also made. From the evidence so tendered the following emerged as being the facts relevant and material to the appeal.

### **The Property**

The Property comprises a retail warehouse located in Westgate Retail Park on Tramore Road close to the roundabout junction with the Inner Ring Road.

Agreed Area 629.6 sq metres

### **Valuation History**

Premises first valued in the 2000/4 Revision at RV €158.71. At First Appeal the RV was increased to €215.86.

### **Tenure**

Held on a 35 Year Lease from 1 November 1999 at a rent of €71,105 with five year rent reviews.

### **Appellants Valuation**

The appellant assessed the rateable valuation on the premises as follows:

Retail warehouse

6770 sq.ft. @ £2.50 (€3.17) per sq.ft. = £17,928

NAV Say £18,000

@ .63 % = £115 (€146)

**Appellant's Case**

Mr O'Kennedy in his oral evidence said that the subject property was located on the Tramore Road close to its junction with the Cork Road. He said that the premises comprised a warehouse type structure with no office accommodation. The property has no heating and only twelve to fifteen car spaces. He said that a warehouse could have a retail use without a retail finish. He said that the area where the property is located has been developing since 1992 but that the Tribunal must value the premises as of 1988.

Mr O'Kennedy referred to his valuation and said that he had established from local auctioneers, that rental levels in 1988 for this development would have been about £2 per sq.ft. (€2.53). He has also consulted the Jones Lang Wooten index of industrial lettings for 1988 and he said that the index had confirmed rental levels in the area at about £2 per sq.ft. He had considered comparative premises such as Ritz Interiors, Sam Hire and Kellers Electrical Wholesale and had valued the subject on a similar basis. In relation to the comparisons set out in his précis of evidence, Mr O'Kennedy said that the finish of Instore was much superior to the subject and that Woodie's location, fronting to both the Cork and Tramore Roads, was far superior. Woodie's also had much more extensive car parking available to it. Mr O'Kennedy's comparisons are attached as appendix 1.

Mr O'Kennedy said that he had difficulty understanding the large difference between the valuations of the revising and appeal valuers as there was no material difference in the premises valued.

Under cross examination by Mr Smiley, Mr O'Kennedy accepted that the development was both industrial and retail and that Superquinn was located in the development and that the location was good for a retail warehouse. He also agreed that the subject was being used as a warehouse and retail outlet and that the premises had access to adjacent car spaces.

## **Respondent's Case**

### Respondent's Valuation

Mr Smiley assessed the rateable valuation on the subject premises as follows:

Retail Warehouse

629.6 Sq.metre. @ €54.67

NAV €34,420

@ .63% = RV €15.86

Mr Smiley in his oral evidence said that he had valued the property by reference to comparisons. He adduced three comparisons in his précis of evidence and these are appended to the judgment at Appendix 2. Mr Smiley said that in valuing the premises he had taken into account the state and circumstance of the property as of the valuation date in 2000 and had then backdated the valuation to 1988. He said that his valuation was based on comparisons and that his approach was confirmed by using the rent and the application to it of the Jones Lang Wooten Retail Index. He said that in his opinion the subject was in a better location than Woodies. In relation to Woodies he said that it had been revised in 2001 and a valuation of €88.66 per sq.m. applied. No appeal had been taken against this valuation. He said that in his opinion the finish in Woodies and the subject are the same.

## **Findings and Determination**

The Tribunal has considered the evidence presented by Mr O'Kennedy for the appellant and Mr Smiley for the respondent and has noted the arguments adduced by both parties.

This retail park has a mixture of retail and commercial units in it. The subject unit has a good finish and is well presented. This unit is being used both as a store and for retail purposes. The Tribunal is of the view that visibility of one property over another in an area like Waterford, is of little significance as locals would be familiar with their locations.

Two of the comparisons were common to both parties, namely Woodies and In Store Furniture Shop. In addition Mr Smiley gave the comparison of the Paint Company.

The Tribunal considers that the Instore and Paint Company comparisons are of most assistance in this case. In relation to the JLW index the Tribunal reiterates its stated view that indices can only be a guide as they generally refer to a basket of properties.

The Tribunal is of the view that the valuation placed on the subject premises is fully justified both by reference to comparisons and to the adjusted rent.

Having regard to the evidence adduced and the arguments proffered, the Tribunal considers that the rateable valuation of €215.86 as determined by the Commissioner of Valuation is fair and reasonable. The Tribunal therefore affirms the valuation.