

Appeal No. VA02/3/009

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

Dairygold

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop, Store and Yard at Map Reference 27P Kilmoney Road Lower, Townland: Kilmoney, ED: Liscleary, RD: Kinsale, County Cork

B E F O R E

Frank Malone - Solicitor

Deputy Chairperson

John Kerr - FIAVI

Member

Maurice Ahern - Valuer

Member

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

By Notice of Appeal dated the 23rd May 2002, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €857 on the relevant property above described .

The Grounds of Appeal as set out in the said Notice of Appeal are that:

- (1) The valuation is excessive and inequitable.
- (2) The valuation is bad in law.

This appeal came before the Tribunal by way of an oral hearing held in the Council Chamber, Cork County Council, Cork on the 11th October 2002. At the hearing the appellant was represented by Ms Sheelagh O’Buachalla BA., ASCS., a Director of GVA

Donal O’Buachalla and Mr Patrick McMorrow B.Agr.Sc.(Economics) ASCS., MIAVI., a District Valuer in the Valuation Office, represented the respondent.

Both parties to the appeal provided written précis of evidence to the Tribunal and exchanged them with each other in advance of the oral hearing. This evidence was supplemented by additional evidence obtained either directly or via the cross-examination process. From the evidence so tendered the following relevant facts either agreed or so found emerged as being material to this appeal.

The Property

A Co-op Superstore used for traditional agri-hardware, house furnishings, electrical white goods and garden centre sales. A large, newly constructed shop with garden centre stores and associated offices, situate upon an extensive surfaced yard and car parking facility, with two older store buildings at the rear of the site. The main shop is a modern warehouse type structure with a significant amount of glazing, clad in masonry brick, formal entry under glazed canopy, with an elevated metal clad roof to the rear section accommodating a mezzanine floor within. The garden centre located to the side of this new structure is primarily open and confined within a high profile palisade style metal fence. Both parties agreed that the interior fit-out, the level of natural and recessed fluorescent lighting and suspended ceiling are all to a high commercial / retail standard. The ceiling height in the main shop floor area exceeds 4 metres. The mezzanine or first floor designed for retail / showroom use has not yet been used for said purposes.

Location

The subject property is located to the west or rear of the various properties fronting the western side of Main Street, and north of Kilmoney Road Lower, on the fringe of Carrigaline’s centre core commercial area. The subject property is also located south of the Carrigaline Shopping Centre with ingress and egress provided solely by means of an entrance and exit point at Kilmoney Road Lower. Carrigaline is a developing satellite

town located approximately 10 kilometres south of Cork City in the west harbour area and has a population in the town and surrounding area of approximately 11,000 persons.

Both parties to the Appeal agreed in advance to the areas of the property, summarized as follows;

Use	Sq. Metres
Retail :	1,691
Stores :	396
Mezzanine Floor :	185
First Floor Offices :	230
Old Stores :	880
Open Garden Centre :	867
Yard / Parking	4,700

However, immediately prior to commencement of the Hearing, Ms. O’Buachalla and Mr. McMorrow both agreed to a change in the measured area of the Yard / Parking to 3,527 m². The effect of this adjustment resulted in a mathematically agreed RV calculation of €59.00 as different from Ms. O’Buachalla’s calculation of €51.00 and an apparent RV amount of €53.90 as compared to an RV calculation of €62.92 in the Respondent’s Valuation.

Tenure

Interest in the subject property is held freehold. The site was acquired over 25 years ago by Ballyclough Co-op, which was subsequently taken over by Dairygold and no details of the purchase price were made available to the Tribunal.

Valuation History

Revision 2001 / 3 **RV €857.00** (£675.00)
Appeal : 23.04.2002 **RV €857.00** (£675.00)

The Appellant's Submission

Having taken the oath, Ms. O'Buachalla summarized the basis of the Appeal as outlined in her written submission. In summary, she addressed herself to five specific issues which she felt had not been taken into account by the Respondent, as follows;

- The property is on the outskirts of Carrigaline town and therefore does not enjoy the profile or prominence of a town centre property.
- Planning Permission was granted by Cork County Council to her client for the construction of Retail Hardware Shop, Stores and Garden Centre with associated signage, entrance and car parking. Accordingly, Ms. O'Buachalla contended that the subject should be valued having regard to similar premises of similar use.
- In line with the foregoing, she felt the subject is not comparable to Supermarkets which require specific Planning Permission, and in her view, are finished to a higher specification.
- She felt the lined parking area to the rear should be reflected in the Valuation of the Shop premises and the remaining area used for storage to be separately valued as yard area.
- She informed the Tribunal that the corrugated iron sheds at the rear are basic structures, over 20 years old, and the Valuation should reflect same.

She then addressed the four Comparisons provided by her in her submission, details of which are contained in Appendix 1, attached herewith. Ms. O'Buachalla indicated that her Comparison No. 3, i.e. Dairygold, 8D, Raheen, Limerick, was now in her view possibly not suitable and the figures not reliable. She then noted a correction to be made on the detail of her Comparison No. 4, being the Lidl Supermarket in Mallow, which she stated should correctly read as follows;

Retail :	998m ² x €68.31
Offices :	29m ² x €4.69
Store :	22m ² x €4.15
Trolley Bay / Canopy :	160m ² x €6.83

In concluding her presentation, Ms. O’Buachalla strongly contended that the subject property should not be compared to supermarkets for the purpose herein.

Mr. McMorrow commenced cross-examination of Ms. O’Buachalla by challenging the “warehouse” description in the Appellant’s submission. Ms. O’Buachalla responded by acknowledging that the shop premises is fitted out to a very good retail standard. In response to further questioning by Mr. McMorrow, she advised that the building was erected in 2000 at a cost of €2.540 million (£2 million), including all works, but excluding the older stores at the rear and the site value. Mr. McMorrow expressed his opinion that the profile and access to the subject is similar in effect to the nearby Super-Valu. Ms. O’Buachalla challenged Mr. McMorrow on this point indicating that the latter supermarket is located in a Shopping Centre and the subject property of this Appeal has no direct street profile. She then provided the Tribunal with photographs to support her position on this.

Mr. McMorrow questioned the nature of the Planning Permission and in particular asserted and Ms. O’Buachalla agreed, that Retail Hardware Planning Permission normally requires additional parking relative to supermarkets. He produced a photograph of the Dairygold premises located on the Dublin Road in Fermoy. Ms. O’Buachalla, having looked at the photograph, agreed that the structure in that photograph is a better representation of her understanding of a warehouse type building. In the case of Middleton, again having looked at photographs produced by Mr. McMorrow, she informed the Tribunal that though the structure there is older, that particular Dairygold premises is very well fitted out, though somewhat restricted in function due to its age. She confirmed in reply to Mr. McMorrow, that the Raheen premises being her Comparison No. 3, is not now one to rely upon. Mr. McMorrow provided a photograph

of the Lidl premises in Mallow, which indicated a more standard form stand alone metal building and Ms. O’Buachalla agreed with Mr. McMorrow that the ceiling height or headroom in the latter is considerably lower than the subject.

Respondents Case

Having taken the oath and adopted his précis as his evidence-in-chief, Mr. McMorrow drew the Tribunal’s attention to the following two changes on Page 7 of his submission;

- A. The old stores of 880 m² to now read €17.09 / sq. m or £1.25 per sq. foot, correcting the NAV to read €15,037.67.
- B. The second change reflected the agreed adjustment on the yard / parking area noted earlier and as a result of these two, the NAV should now read €70,779 x 0.5% = RV €353.90, and by incorporating these changes into his valuation calculations, the RV would again round out, without change, at €357.00, per his submission.

Mr. McMorrow also brought the Tribunal’s attention to typographical changes required on pages 9 and 10 wherein the headers typed €/ sq. metre should be taken to read £ / sq. metre.

At the request of the Chairman, Mr. McMorrow provided the Tribunal with an undertaking that he would arrange to have a Valuation Certificate re-issued and submitted to the Registrar’s office with the currency symbols on the Rateable Valuation line to be clearly distinguished as Euro, as distinct from the £ symbols overwritten in pen as € and somewhat confusing on the Certificate included with his submission. Mr. McMorrow then summarised his précis and addressed the following matters;

- The products sold within the premises
- The age and design of the building

- The high standard of finish within the main shop as evidenced by the photographic images on pages 17 and 18 of his submission.
- The mezzanine floor, though not yet in use, being also finished to a high standard
- The location of the property within Carrigaline town and its proximity to the nearby Super-Valu.

He acknowledged that the subject does not have Main Street access. On the basis of the foregoing, he contended that the more common basic Agri-stores structures and finishes are not appropriate comparisons to be used for the purpose herein.

Mr. McMorrow's submission incorporated five Comparisons, which are attached as Appendix 2, herein. On his Comparison A, he informed the Tribunal that the NAV on the retail area of nearby Collins' Super-Valu, on the northern bank of the Owenabue River, is calculated at €88.83 for the much larger retail area. Retail area in the subject premises has been calculated by the Valuation Office at €68.35 / sq. m. Mr. McMorrow guided the Tribunal through his Comparisons B, C, D, and E, advising that the Robert Acton Store is located in Kinsale, a town with a population of 2,237 persons showing an NAV of €75.12 / m² on an area approximately one third that of the subject. He confirmed that the NAV on his Comparison C is based on passing rent. He also confirmed that his Comparison D, being Dairygold in Mallow town, benefits from good street frontage, but suffers from the provision of inadequate parking and one-way access.

He concluded his summary, and Ms. O'Buachalla commenced her cross-examination of Mr. McMorrow. In reply to her enquiry, Mr. McMorrow stated that he did not know if his Comparison A included an Off Licence. Ms. O'Buachalla confirmed that there is an Off Licence in Collins' Super-Valu. Mr. McMorrow stated that a supermarket is valued just as a supermarket, as it is, with or without an Off Licence. He acknowledged that Collins' Super-Valu is integrated with a Shopping Centre and benefits from good profile. He stated that the subject is approximately three times greater in retail floor area and that he would accept the principle and practice of the application of a quantum allowance on his Kinsale Comparison but concluded his statement by saying that this allowance is then

countered by the relatively smaller population base in Kinsale. He accepted Ms. O’Buachalla’s contention that the Aldi comparison is within a retail park and not a particularly suitable comparison.

Mr. McMorrow stated that if the Valuation exercise were to be assessed on the basis of taking all the property as one, upon the subject, the RV would calculate to a higher level than the Revision figure. He affirmed that his Comparison D, Dairygold, Mallow, was calculated on an NAV basis and again acknowledged that it does enjoy good street profile. In conclusion he confirmed to Ms. O’Buachalla that he would nominate the nearby Collins’ Super-Valu as his most relevant or suitable Comparison. Ms. O’Buachalla contended very strongly that the difference in Planning Permissions granted between the subject and Super-Valu should be recognized and taken into account in the Valuation of the subject.

Findings

The Tribunal has carefully considered the contents of the written submissions, the agreed amendments and adjustments thereto and the arguments proffered by both parties at the Hearing. In so doing it finds as follows :-

1. With the agreed adjustment on the calculation of area of the yard / parking facility, the areas for each of the listed uses of the subject property are agreed by the parties.
2. The general description of the various elements of the property are not in dispute. The parties reached an understanding at the Hearing in terms of the nature of the design and construction of the main store, including fit out and general finish specifications.
3. Both parties agreed that the Planning Permission granted to Dairygold for the property was specific to the stated purposes as per Copy of “Notification of

Decision to Grant Permission S/98/3547 issued by Cork Co. Council and provided in the Appellant's submission.

4. Both parties agreed that sole ingress and egress to/from the property off Kilmoney Road Lower mitigates unfavourably with those retail properties enjoying Main Street access.
5. Both parties acknowledged and mutually agreed to the typographical corrections in their respective written submissions, as noted above.
6. The Appellant and Respondent acknowledged the difficulties of identifying suitable comparable properties, which would serve as more useful to the purpose.
7. Though differences remained between the parties on the NAV's which they each contended as more indicative of market conditions to each of the seven areas outlined in their Valuation summaries, it appeared that the main difference between them was primarily based on :
 - a) Planning Permission for Hardware / Agri Store viz. Supermarkets.
 - b) Location, profile and scope of the subject property.
 - c) Quality of finish and standard of building

Determination.

The Tribunal shares the view held by the Appellant that the nature of the Planning Permission and consequent use of the property should be considered for what it is. The Tribunal does not consider the Respondent's preferred Comparison A, i.e. Collins' Supermarket, being a major retail grocery and Off Licence outlet within the nearby Carrigaline Shopping Centre, as an appropriate or suitable property to compare. The Tribunal concludes that the nature and trade conducted at or through an Agri-business retail outlet, is different in many ways to a Supermarket viz. :-

- (i) Products being offered for sale
- (ii) Purpose and frequency of customer visits
- (iii) Nature and scope of required parking
- (iv) Range of products, margins and stock turnover levels
- (v) Seasonality influences on stocks
- (vi) Hours of trading and particularly Sunday trading
- (vii) Demographic profiles of the customers

With all of the foregoing considered, the Tribunal concludes that a fair and reasonable Valuation on the subject would be an assessment based on the following values :-

Use	Sq. m.		€/ Sq. m.		NAV €
Ground Floor Retail	1,691	@	€61.00	=	103,151.00
Stores	396	@	€30.00	=	11,880.00
Mezzanine Floor	185	@	€41.01	=	7,586.85
Offices	230	@	€41.01	=	9,432.30
Old Stores	880	@	€15.00	=	13,200.00
Garden Centre	867	@	€ 2.73	=	2,366.91
Yard	3,527	@	€ 2.05	=	7,230.35

					€154,847.41

NAV €154,847.41 x 0.5% = €774.24

Say €774.00

The Tribunal so determines an RV on the subject of €774