

Appeal No. VA06/1/001
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**AN BINSE LUACHÁLA**  
**VALUATION TRIBUNAL**  
**AN tACHT LUACHÁLA, 2001**  
**VALUATION ACT, 2001**

**Xtra-vision Limited**

**APPELLANTS**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Shop at Lot No. 23/Unit 1, Hanover Square, Bridewell Lane, Carlow Urban, Carlow UD, County Carlow

**B E F O R E**

**Michael P.M. Connellan - Solicitor**

**Deputy Chairperson**

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

**Member**

**Michael McWey - Valuer**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 29TH DAY OF MARCH, 2006**

By Notice of Appeal dated the 10th day of January, 2006, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €170.00 on the above described relevant property.

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

"The RV is excessive having regard to the levels applied to nearby retail units."

The Appeal proceeded by way of an oral hearing at the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on Monday 27<sup>th</sup> February 2006. The Appellant was represented by Mr. Joseph Bardon, FSCS, FRICS. Ms. Orlaith Ryan, a Valuer in the Valuation Office, appeared on behalf of the Respondent.

### **Valuation History**

The property was the subject of a Revision of Valuation in 2005 at a rateable valuation of €170. An appeal was lodged and having considered the appeal the Commissioner made no change. An appeal to the Valuation Tribunal was made on the 10<sup>th</sup> of January, 2006.

### **The Property Concerned**

The premises, Unit 1, Hanover Square, is a modern shop unit with glass frontage of 11 metres with standard Xtra-vision signage and is on the south side of Kennedy Avenue, less than 0.5 km south east of Carlow town centre. Internally the property has carpeted concrete floors, suspended ceilings with integrated fluorescent lighting and plastered and painted walls.

The unit incorporates the main retail area of 179 sq. metres with a section partitioned off at the rear as a tape store, a second raised retail area of 22.4 sq. metres to the right hand side with a separate store off measuring 8.2 sq. metres, a small kitchenette of 5.5 sq. metres and a w.c. The usual mains services are supplied and connected to the unit. Heating is by means of an air conditioning system.

The unit faces the Town Council pay and display car park, and there is further pay and display parking at the rear of the unit in Penneys car park.

Carlow is a large provincial town of 18,487 people (2002 Census) and is rapidly expanding. It is 84 km south of Dublin.

### **Title**

The premises are held under a 20 year lease with 5 year reviews from 28 October, 2002 at a current rent of €72,000 per annum.

Prior to the commencement of evidence Ms. Ryan made application to amend her written submission. On page 9 she requested that the paragraph relating to location (paragraph 2) be deleted in total. On page 12 she requested that the term of the lease be amended from 55 years to 25 years. On page 13 she requested that the figure of 17 metres be changed to 4 metres, that the leasehold term be amended to 5 years from March 2003 at the initial rent of €25,000 (instead of €64,000) and that the reference to review be deleted. Mr. Bardon agreed to these amendments and amendments were so made.

### **The Appellant's Evidence**

Mr. Bardon, having taken the oath, adopted his written précis and valuation which had previously been received by the Tribunal as being his evidence-in-chief. In the course of his evidence he corrected a miscalculation at page 3 of his précis, changing the total NAV figure in his valuation from €30,302 to €27,855.

He stated that the commercial centre of Carlow had, during the last 10 years or so, shifted from the town centre, Tullow Street – Dublin Street, to the Potato Market area with the development of the Carlow Shopping Centre and the opening of the Council car park on the north side of Kennedy Avenue. This area commanded the best rents in Carlow and was now the most important area in the town.

He strongly maintained that there was a distinct difference between the retail units which were located on the north side of Kennedy Avenue in the Potato Market and those on the south side of Kennedy Avenue. There was, he said, significant through traffic on Kennedy Avenue and this split the subject property from the area to the north of the avenue. The north side in his opinion was the more valuable. The south side was less attractive.

There were 5 or 6 car parking units to the front of the subject property and 8 or 9 places to the west of it.

The units on the north side of Kennedy Avenue were adjacent to the Council car park and there was little traffic to inhibit pedestrians from crossing to this car park from the units in the Potato Market.

He maintained that the recent letting of four units in the Potato Market achieved rents of €50 per sq. foot, albeit in August 2004. In contrast the rent on the Xtra-vision unit was €30 per sq. foot in 2002 for a larger floor area.

He submitted that, an allowance of 5% per annum should be made to reflect the lapse of time and 10% to reflect size differential, this would only bring the rent on Xtra-vision up to €36 per sq. foot which is 38% below the level secured for premises in the Potato Market on the north side of Kennedy Avenue.

In evidence he contended for a rateable valuation as set out below:

Retail area & tape store	179.0 sq. metres @ €136.70 per sq. metre	€24,469
Side retail area (Games)	22.4 sq. metres @ €109.36 per sq. metre	€2,450
Side Store	8.2 sq. metres @ €68.35 per sq. metre	€560
Staff kitchen	5.5 sq. metres @ €68.35 per sq. metre	<u>€376</u>
		€27,855
NAV €27,855 @ 0.5% = €139.28		Say €140.00

In support of his opinion of rateable valuation Mr. Bardon introduced eight comparisons, details of which are set out in Appendix 1 attached to this judgment.

He stated that the levels applied to retail units in the immediate vicinity of the subject property appeared to be very inconsistent. There were 19 retail units on the south side of the roundabout at the junction of Kennedy Avenue and the Potato Market, 7 to the west of the roundabout and 12 to the east of it. The older units on the east side of the roundabout were valued at levels ranging from €109.36 to €136.70 per sq. metre (£8 to £10 per sq. foot). The newer units to the west of the roundabout were valued at levels ranging from €164.04 to €191.38 per sq. metre (£12 to £14 per sq. foot). He maintained that the levels applied within a stretch of less than 200 metres ranged from €109.36 to €191.38 (£8 to £14 per sq. foot). This represented a differential of 75%. Some of the discrepancy might be down to size but this, he said, did not justify such a range.

He maintained that a similar situation applied in the Potato Market units – levels varied from €5.37 to €246.06 per sq. metre (£7 to £18 per sq. foot), representing a differential of 157%.

This was inexplicable, in fact outlandish. He had never seen such a differential before. The Potato Market was a very small street with only 20 units in total.

He pointed out that it was very difficult to know what a fair level was for Xtra-vision. It would appear that the tone of the list was not considered at all. The latest appeal, so far as he was aware, applied to O'Briens Fine Wines (his comparison No. 4), which was the same size as the subject property and was agreed. He was using this as his main evidence to be relied on. These levels coincided with the levels applied to the old Xtra-vision unit in the Potato Market (now Godfathers).

In reply to Ms. Ryan he agreed that there was a pelican crossing (pedestrian crossing) from almost in front of Xtra-vision to the premises on the Potato Market side of Kennedy Avenue and that there was pay and display parking at the rear of Xtra-vision in Penneys car park, as well as the Town Council pay and display car parking on the north side of the Avenue and directly across from Xtra-vision. He also agreed that there was a multi-storey car park behind the Superquinn premises, which was opposite the units in Hanover Court to the east of Kennedy Avenue and that one could walk from the multi-storey car park directly into Superquinn and that there was also an opening onto Kennedy Avenue from Superquinn almost opposite the Ken Black premises (his comparison No.7). There were also alleyways leading from the Dinn Rí Hotel and apartments on Dublin Street to the north of the town car park.

He maintained that premises on the south side of Kennedy Avenue were inferior to those on the north side and should be valued accordingly.

He also pointed out that evidence of two rents put to him by Ms Ryan did not indicate rental growth.

### **Respondent's Evidence**

Ms. Orlaith Ryan, having taken the oath, adopted her written précis and valuation which had previously been received by the Tribunal as being her evidence-in-chief.

In her evidence she contended for the rateable valuation set out below.

Main Retail	179.00 sq. metres	@ €164.00 per sq. metre	= €29,356.00
Raised Retail to side	22.40 sq. metres	@ €150.34 per sq. metre	= €3,367.62
Store	8.20 sq. metres	@ €95.67 per sq. metre	= €784.50
Canteen	5.50 sq. metres	@ €95.67 per sq. metre	= €526.19
Total NAV Nov 88			= €34,034.31

**Rateable Valuation = Total NAV x 0.5% = €70.17                      say €70**

She agreed the areas with Mr. Bardon and introduced 9 comparisons, details of which are set out in Appendix 2 attached to this judgment. Comparison No. 1, McDonalds (a common comparison) was almost of similar size and frontage as the subject premises and was next door. It had a figure of €164 per sq. metre on the restaurant section.

She said that she was the Revision Officer for 4 premises in the Potato Market and that the only submission was for O'Brien's Fine Wines, which was agreed.

She maintained that the units on the north of Kennedy Avenue were on a par with those on the south side and rejected Mr. Bardon's submission.

In examination, Mr. Bardon put it to Ms. Ryan that her comparisons Nos. 5 to 9 inclusive were from the same revision as Xtra-vision and that accordingly they should not be offered as comparisons. Ms. Ryan did not accept this.

She also said that she had looked at relevant units in the Potato Market and at McDonalds, as well as at the tone of the list, but had not looked at Godfathers.

## Findings

The Tribunal has carefully considered all the evidence proffered and arguments adduced by the parties and finds:

- (1) The subject property is in a well-located development in Hanover Square and by common consent has been constructed and finished to a high standard.

- (2) The units in the Potato Market are in a slightly better location than those in Hanover Square because of their proximity to Tullow Street, the old business centre. Hanover Square is very accessible from the Potato Market and from all car parks. There is a pelican crossing just outside the subject property leading to the town car park and the Potato Market.
- (3) The Tribunal is of the opinion that Ms. Ryan was entitled to submit her comparisons (Nos. 5 to 9 inclusive) for the consideration of the Tribunal. Nonetheless, given the fact that the properties were valued at the same time as the property under appeal, this evidence must be treated with some degree of caution and critically examined to see if it fits in with the prevailing patterns of values for other units in the Potato Market, Hanover Square and Hanover Court.
- (4) The Tribunal finds it very difficult to understand the huge differential in the levels in Potato Market, Hanover Square and Hanover Court (€95 to €246). It makes it difficult to determine a fair and reasonable level of valuation for the subject property.

Having regard to the foregoing the Tribunal finds the rateable valuation of €170 determined by the respondent to be fair and reasonable and therefore affirms that valuation.

And the Tribunal so determines.