

Appeal No. VA06/3/011

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

**Oakholm Ltd.**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Supermarket, Garage/Filling Station at Lot No. 6Bc, Tonbwee, Castleisland, Tralee, County Kerry.

**B E F O R E**

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

**Deputy Chairperson**

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

**Member**

**Maurice Ahern - Valuer**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**

**ISSUED ON THE 15TH DAY OF JANUARY, 2007**

By Notice of Appeal dated the 17th day of July, 2006 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €845.00 on the above described relevant property.

The grounds of appeal as set out in the Notice of Appeal are:  
"Valuation is excessive and inequitable and bad in law."

The appeal proceeded by way of an oral hearing which took place in the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 18<sup>th</sup> October, 2006. The Appellant was represented by Ms. Sheelagh O Buachalla, B.A., ASCS, a Director of GVA Donal O Buachalla, Property & Rating Consultants. Evidence on behalf of the Appellant was given by Mr. Jim Garvey, Financial Director, Garveys Supermarket. The Respondent was represented by Mr. David Molony, B.Sc., M.R.I.C.S., a District Valuer in the Valuation Office.

In accordance with the Rules of the Tribunal the parties had exchanged their précis of evidence prior to the commencement of the hearing and submitted same to the Tribunal. At the oral hearing both parties having taken the oath adopted their précis as their evidence-in-chief.

### **Valuation History**

- August 2005: Valuation of subject property revised  
Valuation Certificate issued.  
Rateable Valuation fixed at €735.  
Description: Supermarket, Garage/Filling Station.
- 19 September 2005: Oakholm Ltd. submitted Representations to the Revision Officer.  
Valuation increased to €770.00.
- 22 December 2005: Oakholm Ltd appealed the valuation assessment to the Commissioner of Valuation.
- 20<sup>th</sup> June 2006: The Commissioner of Valuation issued his decision to increase the valuation to €845.
- 17 July 2006: The appellant lodged an appeal to the Valuation Tribunal.

### **The Property**

#### **Location**

The property is located on Church Street on the outskirts of Castleisland. Its main frontage is to Church Street and return frontage to a minor road which leads directly to

the Tralee/Killarney road. Castleisland is a small provincial town with a population of approximately 3,200 persons.

### **Description**

The property comprises a new purpose-built supermarket which is part single and part two storey to the front and single storey to the rear. There is also a service station with a fuel canopy attached to the front of the property. The appellant sells his own brand - "Garveys" - of petrol and diesel.

### **Tenure**

The property is held freehold.

### **Appellant's Evidence**

Ms. O Buachalla called on Mr. Garvey who, having taken the oath, gave evidence and confirmed that he was the financial director of Garveys Supermarket for the past 6 years. Garveys have four outlets in Kerry namely Killarney, Tralee, Castleisland and Listowel. He stated that the main comparison for the subject property was Listowel in terms of turnover and population. The population of Castleisland was 3,200, Listowel 3200, Tralee approximately 20,000 and Killarney 13,000. It was a family based business with headquarters in Tralee. The Manor Retail Park in Tralee had affected their business in both Listowel and Castleisland.

Asked by Ms. O Buachalla to go through the comparisons in her submission [see Appendix 1 hereto] Mr. Garvey confirmed that Tralee, Killarney and Listowel were in town council rating areas and Castleisland was in the Kerry County Council rating area. He stated that of the three comparisons two of them would be competitors of Garveys, namely Brownes Cash Store Ltd. and MP Moran & Son, both in Castleisland, while Lidl would be a competitor in Listowel. He also stated that Lidl were among the top ten retailers in the world. Brownes Cash Store Ltd would be superior to Garveys in that it was in a better location. He stressed that the valuations in Castleisland and Listowel should be similar. They both have roughly the same population. He confirmed that his firm had bought Guerins in Market Street, Listowel and that the business there was approximately one third higher than Castleisland.

Ms. O Buachalla then referred the Tribunal to the Valuation Office comparisons namely Lidl in Castleisland and Lidl in Tralee [see Appendix 2 hereto]. She stated that Lidl in Castleisland was not appealed and this was because the appeal time limit was missed.

Asked by Ms O Buachalla to comment on Mr. Molony's statement that the immediate area was experiencing new commercial growth Mr. Garvey stated that the major development in the town of Castleisland has been their own relocation and in terms of what they have done in the town.

Regarding the petrol station, he confirmed that they are an independent company and buy their oil directly from Whitegate and this allows them to compete with the multiples. The price of petrol at present in Garveys in Casleisland was 99.9 cent per litre. Their profit margin on fuel was 2.5%.

Ms O Buachalla, having taken the oath, adopted her written précis which had previously been received by the Tribunal as her evidence-in-chief. She contended for a rateable valuation of €640 calculated as follows:

	Sq. m.	€/sq. m		NAV €
<b>Ground Floor</b>				
Entrance/Supermarket	1683.00	54.67	=	92,009.61
Cold Rooms	45.80	41.00	=	1,877.80
Stores	293.46	27.32	=	8017.33
Offices	5.76	34.16	=	196.76
Yard	115.36	3.42	=	394.53
<b>First Floor</b>				
Offices/Canteen	87.57	41.00	=	3,590.37
Store	4.41	20.49	=	90.36
<b>Fuel Sales</b>	2,600,000 litres @ 0.88c/litre		=	22,880.00
		NAV		129,056
		<u>RV@0.5%</u>	=	RV €640

Ms O Buachalla stated that the proposed Valuation Certificate was issued at RV €735. Representations were made to Mr. Molony, and the Valuation was increased €770. Her understanding was that this increase related to an increase in the rate per square metre of the supermarket. At first appeal the valuation was further increased to €845. This increase was due to an adjustment of the sales of fuel. Mr. Molony, she said, originally had a figure of 372,654 gallons and at appeal stage he increased this to 604,649 gallons.

Ms O Buachalla referred to the population of Castleisland as 3,272, Killarney as 13,426 and Tralee as 20,258 and she stressed that both Killarney and Tralee are substantially larger towns with larger catchment areas.

In support of her opinion of net annual value Ms O Buachalla introduced six comparisons details of which are at Appendix 1 hereto. Brownes Cash Store Ltd in Castleisland, was valued at a rate of €61.50 per square metre. It was smaller than the subject but in a better location in the town with car parking. The second supermarket in Castleisland was Lidl, used by Mr. Molony as a comparison. This was valued in 2003 at a rate of €51.24 per square metre at revision stage and was not appealed. Because of the new legislation, namely the 2001 Valuation Act, the property could not be listed for revision unless a material change of circumstances had taken place. It was valued at the same rate as Lidl in Killarney and Tralee which were far superior towns. Because of this, Ms. O Buachalla said she did not attach great weight to this comparison.

Ms O Buachalla referred to the Tribunal decision in **VA96/4/035 - Ray Murray Ltd.** and quoted from section 11 thereof with regard to the weight to be attached to comparison properties.

She referred to a letter of 3 October 2006 from Bardon & Company, Rating Consultants, to herself and copied in her précis of evidence, regarding Lidl, Castleisland. The letter stated that by the time Messrs Bardon & Company were made aware that the RV had been assessed it was too late to contest it.

Ms O Buachalla also quoted Section 49(1) of the Valuation Act 2001. She said that in equity the most suitable comparison here was Guerins, Market Street, Listowel, which was valued at €54.68 per square metre.

In her valuation, Ms O Buachalla valued fuel sales of 2.6 million litres at 0.88 cent per litre whereas Mr. Molony valued 2.748 million litres at 0.93 cent per litre.

Under cross examination Ms O Buachalla agreed that the subject property was on the periphery of Castleisland and stated that modern supermarkets now tend to be located on the periphery of towns where there is normally ample car parking. She agreed that the customer is better served by being on the periphery of the town rather than in the town centre. She also agreed that there were advantages and disadvantages to being located outside the town.

She said the property was not on a main road and would only be used by the people who knew where it was. She agreed that the access to the old premises in the town was restricted and that the access to the subject property was better. She stated that a comparison that had been through the appeal process would carry more weight than one which had not. She agreed that she was not relying on her comparison No. 2, M P Moran & Sons as this was an industrial type premises. When asked by Mr. Molony how she had arrived at the figure of 2.6 million litres for sales for fuel, she replied that she had based it on sales of 50,000 litres per week.

### **The Respondent's Evidence**

Mr. Molony, having taken the oath, adopted his written précis and valuation which had previously been received by the Tribunal as his evidence-in-chief. In his evidence Mr. Molony contended for a valuation of €845 calculated as set out below:

	<b>Sq. m</b>	<b>€/sq. m.</b>	<b>NAV €</b>
<b>Ground Floor</b>			
Entrance/Supermarket	1683.14	71.75	= 120,765.30
Cold Rooms	45.80	41.00	= 1,877.80

Stores	293.46	27.32	=	8,017.32
Office	5.76	34.16	=	196.76
Goods entrance	91.16	10.25	=	934.39
Yard	115.36	3.42	=	394.53

**First Floor**

Offices/Canteen	87.57	47.82	=	4187.60
Store	4.41	20.49	=	90.36

## Fuel Sales

604,649 gallons per annum x £0.05 = £30,202.45 - €8,387.29

= 38,387.29

**NAV = 174851.35**

**RV@ 0.5%**

**RV €874.26**

**Say RV €845**

In support of his opinion of net annual value of the supermarket part of the subject property Mr. Molony introduced two comparisons. He introduced 3 comparisons in relation to his valuation of the fuel sales. Details of all five comparisons are at Appendix 2 hereto.

In his oral evidence Mr. Molony said that in arriving at his opinion of net annual value he had taken into account all material factors that would have a bearing on the letting value of the property concerned. He stated that the subject property was a new supermarket, purpose-built and selling their own brand of petrol and diesel. It was built to the owners' own design and specification and was very accessible being on the periphery of Castleisland. The development also incorporated a pharmacy which was held and valued separately.

The rate of €71.75 per square metre adopted by Mr. Molony was arrived at by comparing the subject with two Lidl comparisons, one in Castleisland and the other in Tralee. Lidl in Castleisland had an area of 991 square metres and was valued at 2002 revision at €71.75 per square metre. Lidl in Tralee had a floor area of 1,245 square metres and was valued at €71.25 per square metre. Lidl in Castleisland was set back from the road and

would not have a very high profile. Mr. Molony produced a map of the area showing the subject property and his comparison, Lidl in Castleisland. Regarding his comparison, Lidl in Tralee, this is situated on the Tralee to Castlemaine/Killorglin road which is a secondary road out of Tralee and is in Kerry County Council rating area. He stated that, in general, the Lidl stores are not finished to a very high standard. They are completed to a shell standard with goods stocked in boxes and have no meat or bakery counters.

Regarding the fuel sales, Mr. Molony's figure was 2.7 million litres valued at 0.93 cent per litre. Ms O Buachalla's figure was 2.6 million litres valued at 0.88 cent per litre. Mr. Molony produced three comparisons, in respect of fuel sales, all of which are in the county council rating area and are not independent but linked to major suppliers. Details of these comparisons are as follows:

1. Property No. 20641 - Kenmare. Occupier: Robert White. RV €235.00. Valued 2001/04 First Appeal – this valuation agreed with GVA Donal O' Buachalla  
Fuel sales: 224,967 gallons @ £0.04 per gallon (0.93 cent per litre)
2. Property No. 21742 - Kilgarvan. Occupier: Michael Healy Ray. RV €48.25. Valued 1999/04 First Appeal.  
Fuel Sales 19,137 gallons @ £0.04 per gallon ( 0.93 cent per litre)
3. Property No. 32972 - Killorgan. Occupier: Peter Keane. RV €235.00. Valued 2003 Revision.  
Fuel Sales 343,159 gallons @ £0.04 per gallon ( 0.93 cent per litre)

In cross examination Ms. O Buachalla referred to Mr. Molony's Valuation Report on the subject property, a copy of which was in her précis of evidence, and asked why his original level of €68.34 per sq. m. on the supermarket portion had later been increased to €71.75 per sq. m. – i.e. the level applied to Lidl. Mr. Molony replied that the specification of Garveys was of a higher standard than Lidl and consequently it should be valued higher. He agreed that Lidl were competitors of Garveys. When asked why Lidl in Castleisland and Lidl in Tralee were valued at almost the same rate, namely €71.75 and



€71.25 per sq. m. respectively, Mr. Molony replied that while Tralee was a bigger town, there was serious competition there from other retailers like Dunnes Stores.

### **Findings**

The Tribunal, having carefully considered all the evidence in the written submissions and given orally at the hearing, makes the following findings:

1. The location of the subject property is not on the main thoroughfare and would generally only be known to the locals.
2. Tralee and Killarney are both bigger towns than Castleisland and would attract quite a sizable tourist traffic as well as having more industry. The Tribunal also notes that there is no major centre of employment in Castleisland. Both Tralee and Killarney would also have a larger catchment area than Castleisland.
3. The Tribunal attaches most weight to the Appellant's comparison No. 1. - Brownes Cash Store Limited (New Cost Cutters) Castleisland which, though older than the subject property, has the benefit of a better location. On the other hand, the subject is a modern building built to the owner's specification with extensive car parking adjacent to it while the parking at Brownes is across the street.

### **Determination**

Having regard to the above findings and the evidence given by both Ms. O Buachalla and Mr. Molony, the Tribunal considers the following to be the assessment of a fair and reasonable valuation.

	<b>Sq. m</b>	<b>@ €/sq. m</b>	<b>NAV €</b>
<b>Ground Floor</b>			
Entrance/Supermarket	1683.14	63.00	= 106,037.82
Cold Rooms	45.80	41.00	= 1,877.80
Stores	293.46	27.32	= 8,017.33
Office	5.76	34.16	= 196.76

Goods entrance	91.16	10.25	=	934.39
Yard	115.36	3.42	=	394.53
<b>First Floor</b>				
Offices/Canteen	87.57	44.00	=	3,853.08
Store	4.41	20.49	=	90.36
Fuel Sales 2,600,000 litres @ 0.90cent/litre			=	23,400.00

**Total NAV = €144,802.07**

**RV @ 0.05% = €724.01**

**Say RV €724**

And the Tribunal so determines.

