

Appeal No. VA06/3/012

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

Argos Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Retail Warehouse at Lot No. Unit 7, Cavan Retail Park, Killynebber, Cavan Rural,
County Cavan

B E F O R E

Michael P.M. Connellan - Solicitor

Deputy Chairperson

Mairéad Hughes - Hotelier

Member

Maurice Ahern - Valuer

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 18TH DAY OF JANUARY, 2007

By Notice of Appeal dated the 19th day of July, 2006 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €325.00 on the above described relevant property.

The Grounds of Appeal are set out in the Notice of Appeal and in a letter attached thereto, copies of which are in the Appendix to this judgment.

This appeal proceeded by way of an oral hearing held in the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 24th October, 2006. The appellant was represented by Ms. Ciara Hayes, BSc (Surv) and Mr. Peter Rowan, Lambert Smith Hampton, while Mr. Patrick Kyne, MSc Planning & Development, B.E., ASCS, MRICS, a Staff Valuer in the Valuation Office, represented the respondent.

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. Ms Hayes made some amendments to her précis, as detailed in the following paragraph, prior to so adopting it.

On page 4 at 2.4 - Accommodation- Ms Hayes amended the First Floor to read 654.63 sq. metres, giving a total of 1520.11 sq. metres. On page 5 at 4.0 - Grounds for Appeal - she amended the third line to read ‘units ranging in size from 451.04 sq m to 464.54 sq m’. She also said that she would not be pursuing the argument in her précis regarding the reduced ceiling heights in the subject property nor would she be contesting the Valuation Office valuation of the First Floor. She also amended the allowance for quantum she was seeking from 25% to 10%, and accordingly her amended estimate of valuation was as follows;

Ground floor	865.48 sq. metres @ €49.70 per sq. metre	€43,014
First floor	654.63 sq. metres @ €27.33 per sq. metre	<u>€17,891</u>
NAV		€60,905
RV		€304.50
Say		€304

Following these amendments Ms. Hayes took the oath and proceeded with her evidence.

The Issue

Quantum.

Valuation History

The Property was first valued in 2005 at a rateable valuation of €325. An appeal was lodged and having considered the appeal the Commissioner affirmed the valuation at RV €325. An appeal to the Valuation Tribunal was lodged on 19th July, 2006.

Location

The property is located in Cavan Retail Park fronting on to the Dublin Road on the outskirts of Cavan Town. The subject Park is a modern purpose built Retail Park incorporating 7 units with 6 occupiers. The occupiers include the subject property as well as Furniture Village, World of Wonder, Hayes Electrical Expert, Tile Market and Better Blinds. Cavan Garden World is situated to the west of these units.

Description

The property comprises an end of terrace retail warehouse unit. The building has a Kingspan roof that is supported by a steel frame with concrete block infill walls. It has a standard Argos finish and layout. The eaves height of 7.0m is divided evenly between both floors. The building has suspended ceilings with recessed lighting in the public retail areas. A large surface car park is located to the front of the building.

Tenure

The premises is held on a 25 year lease from April 11th, 2005 at an initial rent of €148,826 p.a. with 5 year rent reviews and with break options at years 15 and 20.

Accommodation

Accommodation (gross internal) is agreed as follows:

Gr Floor – Retail Warehouse 865.48 sq. metres

1st Floor - Store 654.63 sq. metres

The Appellant's Case

Ms. Hayes gave a brief synopsis of the subject property and the valuation history as described above. She said that she had accepted the Valuation Office level of €54.67 per sq. metre as being the appropriate rate per sq. metre for ground floor retail units ranging in size from 451.04 to 464.54 sq. metres. In her opinion, however, she believed that in arriving at its estimate of NAV, the Valuation Office valuation was excessive on the basis that the footprint of the subject unit was 865.48 sq. metres while some of the other units ranged in size from

450-464 sq. metres. She therefore believed that there should be an allowance of 10% made for quantum, thereby reducing the RV to €304. She stated that her reason for the 10% quantum reduction was the fact that the subject unit is twice the size of the other units within the Retail Park. She also said that in the current letting market she would expect a tenant to pay a lower rental per sq. metre for larger units to reflect quantum. She said that the rental evidence on the subject relates back to 2005, whereas the rental evidence put forward in the comparisons relates to 2001, and it would be unfair to compare rents from 2001 with rents from 2005. She said that the rent on the subject unit equated to €8 per sq. metre based on an overall rate, yet when one looked at Unit 5 (Tile Market, Cavan Retail Park) which was leased back in 2001, the overall rate worked out at €11 per sq. metre.

Ms. Hayes used 4 Comparisons, all situated in Cavan Retail Park, to support her argument.

Comparison 1 - Hayes Electrical Expert, Unit 4, Cavan Retail Park. The rent on this unit was €8,000 per annum in 2001. This unit is analysed as follows:

Ground floor (retail)	361.42 sq. metres @	€54.67 per sq. metre =	€19,759
Ground floor (stores)	89.62 sq. metres @	€41.00 per sq. metre =	<u>€3,674</u>
NAV			€23,433
RV	Say		€117

Comparison 2 - Tile Market, Unit 5, Cavan Retail Park. This unit is analysed as follows:

Ground floor	464.54 sq. metres @	€54.67 per sq. metre =	€25,396
RV			€127

Comparison 3 - Better Blinds, Unit 6, Cavan Retail Park. This unit is analysed as follows:

Ground floor (retail)	456.04 sq. metres @	€54.67 per sq. metre =	€24,932
Ground floor (stores)	456.04 sq. metres @	€27.33 per sq. metre =	<u>€12,464</u>
NAV			€37,396
RV			€187

Comparison 4 - Unit 1, Cavan Retail Park. This unit is analysed as follows:

Ground floor (retail)	435.12 sq. metres @	€54.67 per sq. metre =	€23,788
Ground floor (stores)	361.64 sq. metres @	€27.33 per sq. metre =	<u>€9,884</u>
NAV			€33,672
RV			€168

Under cross examination by Mr. Kyne, Ms. Hayes was asked if she had any evidence to support a 10% reduction for quantum. She said that she did not have the rental evidence to prove that there should be a 10% reduction, rather it was her opinion that a 10% reduction would represent a fair and reasonable allowance. She also stated that the subject property was a retail warehouse with the rear of the building being used for storage. Mr. Kyne then asked Ms. Hayes about her first Comparison – Hayes Electrical Expert. He stated that this unit was let in 2001 at a rent of €38,000. He asked Ms. Hayes if she was valuing this property today with a rental value as at 2006, what value would she put on it. She replied that rather than put a 2006 figure on it, she would value it at between €155 to €160 per sq. metre. However she also stated that she did not have any rental evidence to prove this figure, rather it was her opinion that a property of this size would achieve this amount.

Mr. Kyne then stated that the rent for Hayes Electrical Expert was fixed on review at €140 per sq. metre in April 2006 (ground floor), and that rent was the same as the subject property which did not have any quantum allowance made. He further stated that Unit 2 was also let for €140 per sq. metre in February 2006, and that Units 1- 6 were all approximately the same size. He also stated that there should be no quantum allowance, as the market rents did not reflect any quantum difference. The Chairperson then asked Ms. Hayes if she had anything to say on this matter and she replied that she did not, except to state that where there was a 2006 review versus a 2005 letting, it was obvious that a 2005 letting would create a degree of evidence for a 2006 review. Mr. Kyne did not however agree with this viewpoint.

Mr. Kyne then asked Ms. Hayes if she agreed that the car parking was mostly in front of the Argos building as illustrated in Appendix 2 of his précis. Ms. Hayes stated that these car parking spaces were also used by customers to the Garden Centre, which was close by.

The Respondent' Case

Mr. Kyne took the oath and adopted his précis as his evidence-in-chief. He stated that the rent on the subject property devalued at €140 sq. metre on the ground floor and €13 per sq. metre on the first floor, with a yearly rent of €48,000. He stated that Units 2 and 4 had been reviewed at €140 per sq. metre (ground floor), and that Units 1, 3, 5, 6 were currently being reviewed at the same rate. He contended for a rateable valuation of €25, calculated as below.

Gr Floor Retail warehouse	865.48 sq. metres @ €54.67 per sq. metre =	€47,315.79
1 st Floor Store	654.63 sq. metres @ €27.3 per sq. metre =	€17,891.04
NAV		€5206.83
RV @ 0.5%		€26.03
Say RV		€25

Mr. Kyne used 5 Comparisons to support his valuation, details of which are as follows:

Comparison 1 - Better Blinds, Unit 6, Cavan Retail Park. This unit is analysed as follows:

Retail Warehouse (Gr. Fl.)	456.04 sq. metres @ €54.67 per sq. metre =	€24,932
Store (First Floor)	456.04 sq. metres @ €27.33 per sq. metre =	<u>€12,464</u>
NAV		€37,396
RV		€187

Comparison 2 - Tile Market, Unit 5, Cavan Retail Park. This unit is analysed as follows:

Retail Warehouse (Gr. Fl.)	464.54 sq. metres @ €54.67 per sq. metre =	€25,396
NAV		€25,396
RV		€127

Comparison 3 - Unit 3, Cavan Retail Park.

Retail Warehouse (Gr. Fl.)	455.32 sq. metres @ €54.67 per sq. metre	
Store (First Floor)	455.32 sq. metres @ €27.33 per sq. metre	
RV		€187

Comparison 4 - Unit 1, Cavan Retail Park. This unit is analysed as follows:

Retail Warehouse (Gr. Fl.)	435.12 sq. metres @ €54.67 per sq. metre =	€23,788
Store (First Floor)	361.64 sq. metres @ €27.33 per sq. metre =	<u>€9,884</u>
NAV		€33,672
RV		€168

Comparison 5 - Unit 1 Lakeside Retail Park, Cavan. This unit is situated on the Dublin road, and is close to the subject property. This is not being used as a main comparison.

Retail Warehouse (Gr. Fl.)	700.00 sq. metres @ €61.52 per sq. metre	
Store (First Floor)	96.10 sq. metres @ €30.76 per sq. metre	
RV		€230

Mr. Kyne stated that his Comparisons 1 to 4 outlined the established Tone of the List for retail warehousing in Cavan Retail Park. In his summary he stated that modern Retail Warehousing in Cavan Retail Park was valued at €54.67 per sq. metre on the ground floor and at €27.33 per sq. metre on the first floor. He stated that he made no quantum allowance for the subject property based solely on Tone of the List, and on market evidence on rents that has already been outlined above. The Tone of the List was paramount until revaluation takes place based on Section 49(b) of the Valuation Act, 2001.

In cross examination Mr. Rowan asked if there were any significant features about this Retail Warehouse Park that distinguished it from anything else of a similar nature, Mr. Kyne said that it was similar to other similar Retail Parks. When asked if he thought that a business like Argos would rather not share the car park with the Garden Centre, Mr. Kyne said that the Garden Centre in question was small, and therefore would not affect customers visiting the subject property. He further suggested that an end of terrace building (like Argos) would be more attractive for renting purposes than, say, a mid terrace building. Mr. Kyne stated that there is a mixture of small and larger units in all retail parks, and that we were coming close to saturation point now with retail parks throughout the country. He further stated that, if he were to review the rent for the subject now, he would still put a value of €140 per sq. metre on same.

When asked by Mr. Rowan to indicate what size unit would trigger a quantum allowance, Mr. Kyne stated that in Cavan the size would be 12,000 to 15,000 sq. feet for ground floor footprint, and that the quantum allowance would be about 5% - 10%, while units that measure 20,000-30,000 sq. feet would have a bigger allowance of say 20%. Finally Mr. Rowan asked Mr. Kyne to explain what was the primary evidence used for the rent reviews i.e. €140 per sq. metre. Mr. Kyne stated that Argos was the primary evidence used by him with no allowance made for quantum for a unit of this size.

Findings and determination

The Tribunal has carefully considered all the arguments advanced and evidence adduced by the parties and finds that the respondent's valuation is in line with the tone of the list for retail warehousing in the Cavan Retail Park and is fair and reasonable. The Tribunal therefore affirms that valuation.

And the Tribunal so determines.