

Appeal No. VA06/4/007

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

Virgin Retail (Ireland) Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop at Lot No. 60B.61B/Unit 30, Ramparts, Marshes Lower, Dundalk, Dundalk UD, County Louth.

B E F O R E

Michael P.M. Connellan - Solicitor

Deputy Chairperson

Michael F. Lyng - Valuer

Member

Damian Wallace - QFA, MIPAV, Valuer

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 23RD DAY OF MAY, 2007

By Notice of Appeal dated the 18th day of December, 2006 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €386.00 on the above described relevant property.

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

"The RV is excessive as the Valuation Office have adopted a zoned basis on appeal whereas the other units have been valued on an overall basis on revision."

The appeal proceeded by way of an oral hearing held in the Offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7, on the 28th day of February, 2007. At the hearing the appellant was represented by Mr. Joseph Bardon, F.S.C.S., F.R.I.C.S., Dip in Prop. Ec., Bardon & Co. Chartered Surveyors, Rating Consultants & Valuers., and the respondent by Ms. Ciara Marron, B.Sc. Property Management & Valuation, Dip. in Prop. Valuation & Management, MIAVI, a District Valuer with the Valuation Office.

Each representative having taken the oath, adopted his/her précis and valuation, which had previously been received by the Tribunal and exchanged with the other party, as his/her evidence-in-chief.

The Property

The property under appeal is located at Unit 30 within Marshes Shopping Centre, a new shopping centre on the north side of Rampart Road and about 1 mile south east of the centre of Dundalk town. The town is the county town of County Louth and has a population of 32,500 people. The Centre is a single storey closed centre with anchor tenants of Dunnes and Penneys along with other well known brand names.

There is extensive surface paid car parking of about 1,570 car spaces. Free parking is available after 5pm on week days as well as on Sundays. A map of the Centre is attached to Mr. Bardon's précis and a copy of same is annexed hereto at Appendix 4.

The Centre links into the town centre through a plaza with external shops fronting Rampart Road.

The subject property comprises a mid - terrace retail unit located close to the main entrance to the Centre and between units in the occupation of Morgan and Jane Norman.

Accommodation includes a retail area on the ground floor with offices, stores, canteen and toilets on the first floor. The unit is mainly fitted with tiled floors, panelled walls, aluminium framed windows and mainly open ceilings. The mall frontage is agreed at 15 metres.

Services

The usual services of water, drainage, electricity and telephone are supplied and connected to the unit. Heating is by means of an air conditioned system. The unit is also sprinklered.

Area

This has been agreed at:-

| | |
|--------------|------------------|
| Ground Floor | 358.7 sq. metres |
| First Floor | 179.0 sq. metres |

Tenure

The unit is held under a 25 year lease with 5 year rent reviews from September 2005 at a rent of €162,500 per annum in year 1, €165,000 per annum for years 2 and 3 and €175,000 per annum for years 4 and 5.

The Appellant's Case

In evidence Mr. Bardon said that he had broken down the first floor between offices and stores - offices at 76 sq. metres and 103.9 sq. metres on stores.

He maintained that this case turns on a small point. Ms. Marron valued this unit on appeal on the basis of a zoned approach whereas she valued it, and all the other units in the Centre, at both revision stage and representation stage on an overall basis. He said that he did not believe the zoning method adopted herein was equitable or consistent. He said that only 3 units were valued on a zoned basis on appeal. In his case he had valued the subject property on an overall basis whereas Ms. Marron had valued it on a zoned basis.

Of the three units valued on a zoned basis on appeal he said that he dealt with one of these, namely Barretts. The zoned approach in that case threw up a figure of RV €156.00 and the overall approach a figure of RV €157.00. He said that there was no point in lodging an appeal in that case as the difference was only one euro.

The other two units valued on a zoned basis are the property under appeal herein and another unit which is also under appeal.

He maintained that Ms. Marron is inconsistent in her valuations in this Shopping Centre. He maintained that you must follow, if you are using comparative evidence, the analysis or breakdown on which the comparative evidence is valued. You cannot chop and change in midstream.

He further stated that he agreed with the principle that if you are valuing a shopping centre, the zoning approach is the correct approach. It is more accurate than an overall approach.

He would have no objection to the zoning method if it had been applied from the beginning to all units.

He said that the appellant's property was similar in size to Easons and a|wear, his comparisons. (See Appendix 1 hereto). He accepted the overall figures given by Ms. Marron in her précis for these units (See Appendix 2 hereto).

He applied these figures to his estimate and amended it as follows:

| | | |
|------------------------|--|-------------------|
| Ground Floor – Overall | 358.7 sq. metres @ €119.59 per sq. metre = | €42,897.00 |
| First Floor Offices | 76.0 sq. metres @ € 54.67 per sq. metre = | € 4,155.00 |
| Stores | 103.0 sq. metres @ € 41.01 per sq. metre = | <u>€ 4,224.00</u> |
| | | €51,276.00 |

€51,279 @ 0.63% = €323.04

Say €323.

Cross Examination

Mr. Bardon agreed that he stated at No. 6 in his Notice of Appeal to the Commissioner that *“notwithstanding that the zoned approach had not been used in this centre, I believe that it is the only valid approach to valuing units in a large shopping centre”*. This was not stated as a ground of appeal under paragraph 3 of the appeal application. It was a general comment which he made. In this case zoning had not been used in valuing the Shopping Centre. He stated that he did not ask that the Valuation Office look at the zoning method. It was a general comment only.

He reiterated that he did not ask the Valuation Office to look at the zoning method or indeed to use it when valuing the appellant's property.

The Respondent's case

Ms. Marron in evidence referred to the location map attached to her précis (annexed at Appendix 3 hereto). She said that the Shopping Centre was in a pretty central location and is shown on the bottom left of the map at comparisons 1-4. There is a new road running alongside the Marshes and this made it more accessible. It is in a very prominent location.

The Longwalk Shopping Centre is located just below comparison 6 on the map. It was valued on an overall and rental basis and not on a zoning basis. It was valued 15 or so years ago.

Ms Marron amended by consent the area at 'Retail' in her valuation from 147.63 sq. metres to 358.7 sq. metres.

When asked by the Chairperson where she got the figure of €322 for Zone A in her valuation she said that she zoned all the other units in the Shopping Centre (even though they had all been valued on the overall basis). There was some inconsistency in this so she tried to make it consistent and arrived at an average figure of €322. She considered this as the fairest approach in dealing with this case.

She referred to her 5th comparison, Houstons Brothers Ltd, in Clanbrassil Street which was valued at Zone A at €273.35 per sq. metre. This is not in the Shopping Centre and is not in as good a location. The units in the Shopping Centre are in a far better location.

She then referred to the map of the Shopping Centre in Mr. Bardon's précis (Appendix 4 annexed hereto). She pointed out that some of the units in the Centre are irregular shapes including Easons. Easons loses a big section of the front whereas the subject property is of a regular shape. Alwear is a long, narrow store and the subject property has a regular shape.

Cross Examination

Ms Marron said that she did not adopt the zoning method from the beginning because no other shopping centre of a similar size had been so valued at that time.

Findings

The Tribunal has carefully considered all of the evidence, both oral and written, submitted by the parties and the arguments adduced and makes the following findings:

1. The subject property is in a modern shopping centre in a good central location in Dundalk and with good parking facilities. It is far superior to both Carroll Village Shopping Centre and the Longwalk Shopping Centre.
2. The subject unit has been valued by the appellant on the overall basis whereas the respondent valued it on appeal on the zoning basis.
3. All of the units in the subject Shopping Centre (with the exception of three units) have been valued on the overall basis. Of the three units valued on a zoning basis, one is the premises under appeal, the second is Barratts which was not appealed for the reasons already stated in evidence and the third is also under appeal.
4. Mr. Bardon in his evidence said that in his opinion there was no valid reason to value the subject unit any differently from other retail units in the Centre. As these were valued on the overall basis the subject unit should also be valued on this basis. Ms. Marron, on the other hand, in her evidence stated that she valued on a zoned basis because she had been asked to do so by Mr. Bardon in his Notice of Appeal (Appendix 5 annexed hereto).
5. Mr. Bardon maintained that this was not so, that it was a general observation made by him and did not form any part of his grounds of appeal.
6. Mr. Bardon did accept the principle that zoning is the appropriate approach to take when valuing retail units in shopping centres. This had not been done in this case.
7. The Tribunal is mindful of the Valuation Office "*Guideline on the Use of Zoning as a Valuation Model*" which, if correctly applied, is an important method of valuing retail property. This is a guideline only and has no statutory authority. In it, it states that it is to be used as an aid to valuation which must, at all times, be overruled by common sense.

Determination

Having considered all of the evidence and submissions made by the parties the Tribunal has come to the conclusion that it would be unfair and inequitable to value the subject unit on the zoning basis because almost all of the other retail units in the Centre were valued on the overall basis.

Easons with a ground floor retail area of 426 sq. metres and Alwear with a retail area of 390 sq. metres are both valued at €119.59 per sq. metre. The subject unit is smaller in area than either of these units. It has however a better frontage than either of these units. Alwear is a long, narrow store and the subject property has a regular shape.

Having regard to the foregoing the Tribunal determines the appropriate net annual value and rateable valuation of the subject property to be: -

| | | |
|--------------------|---|-------------------|
| Ground Floor | 358.72 sq. metres @ €129.00 per sq. metre = | €46,274.88 |
| First Floor Office | 75.92 sq. metres @ € 54.67 per sq. metre = | € 4,150.55 |
| Stores | 103.11 sq. metres @ € 41.01 per sq. metre = | <u>€ 4,228.54</u> |
| Total | | €54,653.97 |

RV = €54,653.97 @ 0.63% = €344.32

Say €344.

And the Tribunal so determines.