

Appeal No. VA08/3/014

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

Londis

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2192004, Supermarket at Lot No. 5-8 / Unit 3 (Flr. 0), East Road, North Dock B, North Dock, County Borough of Dublin

B E F O R E

John O'Donnell - Senior Counsel

Chairperson

Patrick Riney - FSCS FRICS FIAVI

Member

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

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 19TH DAY OF DECEMBER, 2008

By Notice of Appeal received on the 17th day of July, 2008, the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €188.00 on the above described relevant property.

The grounds of Appeal are set out in the Notice of Appeal, a copy which is at Appendix 1 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 10th day of November, 2008. At the hearing the appellant was represented by Mr. Eamonn Halpin, BSc, (Surveying), ASCS, MRICS, MIAVI, Chartered Surveyor. Mr. Patrick McMorrow, ASCS, IAVI, a Valuer in the Valuation Office, appeared on behalf of the respondent, the Commissioner of Valuation. Each representative having taken the oath adopted his précis of evidence and valuation, which had been previously received by the Tribunal and exchanged with the other party, as his evidence-in-chief.

History, Location and Description

The property is located at the northern end of East Road, close to the junction of East Road and East Wall Road. It is also beside the Seabank House licensed premises. This long established residential area has been somewhat strengthened in recent years by a number of infill residential developments in the area, including an apartment scheme immediately adjacent to the subject.

The property comprises a newly constructed supermarket at ground floor level within a 4 storey mixed-use development, which incorporates offices, apartments and a public house. The subject property is trading under the Londis brand and consists of a shell retail unit which was partitioned, with plasterboard/stud partitions, into various sections: retail, stores and small office. There is also a small external store in the back yard. The unit is well fitted out as a small supermarket, with typical Londis franchise finish including suspended acoustic tile ceiling, recessed spot lighting, air-conditioning, ceramic tile flooring and PVC framed glazed frontage of circa 6.7 metres and a depth of circa 33.2 metres.

The agreed floor areas are:

- | | |
|--|------------------|
| 1. Main unit, Shop/Stockroom
(Shop 181.8 sq. metres, Stockroom 72.4 sq. metres) | 254.2 sq. metres |
| 2. External store (in rear yard) | 11.2 sq. metres |

Appellant's Case

Mr. Halpin adopted his précis of evidence and referred to a number of sections therein. Mr. Halpin pointed out that his principal comparison was XL Stop & Shop, Church Road, East Wall, Dublin 3. His comparisons are attached at Appendix 2 to this judgment. He referred to

the layout of the shop pointing out that it was circa 35 metres deep and that despite this, an overall level per sq. metre had been used by the Commissioner at first appeal stage.

He pointed out the property was within a new complex, had a frontage of circa 6.7 metres, with a considerable lack of parking facilities outside the premises, together with double yellow lines that further restricted the business and in turn its value.

Mr. Halpin summarised his case stating:

1. The established historic tone at this location was moderate and could be clearly seen from the local comparative evidence.
2. There was limited retail potential at this location.
3. The Commissioner had erred in comparing the subject with a convenience store in East Point Business Campus while being unwilling to accept the established local tone.
4. The levels per sq. metre suggested by the Commissioner are too high, given the property's actual location and particularly its size, which is large in the context of the local market.
5. It was inequitable and incorrect to ignore the established local tone and apply a much higher valuation to the subject just because the subject is newly constructed.
6. The shop, while benefiting from its frontage to East Road, is not significantly better than comparison No. 1, which is close by and benefits from having the Post Office and on street car-parking outside the shop.
7. The appellant relied upon the general principles established by the Tribunal in **VA95/1/104 - Champion Sports Ltd.** to support his case that it is the local tone that should be applied over other factors.
8. The Commissioner appears to be trying to factor into the current assessment some extra value which may or may not arise in the future from developments which may or may not proceed in the general area. The appellant believes this is totally inequitable and that this is the type of valuation change that can only be dealt by a comprehensive Revaluation exercise.

In his opinion the existing RV €88 applied to the subject premises was excessive and his estimate of value was as follows:

Agreed areas

Shop	182 sq. metres	@ €68.34 per sq. metre =	€12,438.00
Stores	72 sq. metres	@ €34.17 per sq. metre =	€2460.00
External store	11.2 sq. metres	@ €13.67 per sq. metre =	€153.00
Total NAV			€15,051.00
RV @ 0.63% = €4.82			
RV say €5			

Cross-Examined by Mr. Patrick McMorrow

Mr. Halpin accepted there were a number of new developments due to be constructed nearby. However the adjacent development which started around November, 2007 was still unoccupied. Mr. Halpin pointed out that his client was aware of the said developments, emphasising they were not occupied and were most likely not to be occupied for some years. However, Mr. Halpin did accept that when some of the adjoining developments were completed and fully occupied they should provide additional business for the subject property. Mr. Halpin also accepted that if further parking was available down the road from the subject property, this would assist the business carried on by his client. However, he pointed out once again that there were double yellow lines directly outside the subject property. Mr. Halpin also accepted that where there were large scale new developments within an area, the local tone of the list would normally not be held. However, he pointed out that in regard to the subject property the situation was somewhat different in that most of the new proposed developments nearby were either unoccupied or still under construction.

Respondent's Case

Mr. McMorrow adopted his précis of evidence and referred to a number of sections therein. Mr. McMorrow referred to the rapidly changing economic and urban environment within the East Wall area over the last few years. This had been a relatively isolated dockland community, suffering from the decline in port related activity. He stated East Wall was now at the centre of one of the fastest growing areas of Dublin City, as evidenced by the large scale and number of building sites immediately adjoining the subject. Some major rejuvenation projects and developments were currently either under construction or completed and immediately adjacent to the subject including developments such as Island Quay, a large mixed multi-storey (8) development of apartments, live-work and commercial

units, Teeling Way - apartment & town house development, Alexander Place - apartment & townhouse development, Gateway - large multi-storey office/commercial development and Centra Supermarket (197 sq. metres including stores RV €255). He submitted details of his individual comparisons (attached at Appendix 3 to this judgment) along with a location map, at the rear of his précis of evidence.

The valuation he had assessed was at 0.63% of the net annual value, which is in line with the basis adopted for the determination of other properties in Dublin city. His basis of valuation is as follows:

Main retail unit 254.2 sq. metres	@ €16.20 per sq. metre =	€29,514.80
Store 11.2 sq. metres	@ €27.34 per sq. metre =	<u>€306.21</u>
NAV		€29,821.01
RV @ 0.63% =	€187.87	
Say RV	€188.00	

Mr. McMorrow submitted 3 comparisons, all in close proximity to the subject property. He emphasised that comparisons No. 1 and No. 2 were relatively close by, but were old adapted premises with associated deficiencies such as inflexibility of use due to structural walls, relatively low head room and rather cramped accommodation generally. His comparison No. 3 was a modern unit located within East Point Business Park.

Cross-Examination by Mr. Halpin

Mr. McMorrow accepted that the Gateway development, which is adjacent to the subject property, was newly built with another supermarket closer to it. He also accepted that the immediate area to Comparison No. 1, i.e. Church Road, East Wall, was densely populated. He had made a concession to take account of the fact that the property had a narrow frontage and a depth of circa 35 metres.

Under further cross-examination, Mr. McMorrow stated that he was not aware as to whether the said new development may include some additional retail/commercial activities, which would provide additional competition to the subject premises.

Findings and Determination

1. The Tribunal has considered all of the evidence and find the common Comparison, Chris O'Meara/XL, 147/148 Church Road, East Wall, Dublin 3, which has the benefit of the post office being located within it, to be of greatest assistance in determining a reasonable valuation.
2. The Tribunal accepts the arguments made that the immediate surrounding area of the subject property is, and will be, undergoing a considerable amount of redevelopment over the next number of years, which should provide potential to improve the business of the subject property. However there are a number of restrictions to the said potential:
 - (a) no parking facilities are provided immediately outside the subject property, due to the marking of double yellow lines,
 - (b) there is a narrow frontage i.e. circa 6.7 metres and the general configuration of the unit is different with a depth of circa 35 metres,
 - (c) a number of the adjoining newly constructed developments will provide additional retail units/competition.
3. The Tribunal accepts the subject premises is located in an area where the established tone of the list is lower than was used by the Commissioner in the subject.

In the light of the foregoing findings, the Tribunal determines the valuation of the property concerned to be €146 calculated as follows:

Main Retail Unit	254.2 sq. metres @ €90 per sq. metre	= €22,878.00
Store	11.2 sq. metres @ €27.34 per sq. metre	= <u>€306.21</u>
Total NAV		= €23184.21
RV @ 0.63%	= €146.06	
RV say	€146	

And the Tribunal so determines.