

Appeal No. VA08/5/151

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

**Jordan Group**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property No. 447634, Supermarket at Rathcoole Shopping Centre, Main Street,  
Rathcoole, County Dublin

**B E F O R E**

**John Kerr - Chartered Surveyor**

**Deputy Chairperson**

**Michael F. Lyng - Valuer**

**Member**

**Mairéad Hughes - Hotelier**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 12TH DAY OF FEBRUARY, 2009**

By Notice of Appeal dated the 14th day of August, 2008 the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €3,800.00 on the above described relevant property.

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

"On the basis that the RV as assessed is excessive inequitable and bad in law. The revision of the property is invalid as the Commissioner did not comply with his obligations under Section 23 of the Valuation Act, 2001, i.e. he did not make available and publish the valuation list as set down."

This appeal has been the subject of a hearing dealing with a preliminary issue namely, the alleged non-compliance of the respondent with section 23 of the Valuation Act, 2001. The Tribunal heard evidence/submissions on this issue on 12<sup>th</sup> September, 2008 and issued its written judgment on 25<sup>th</sup> September, 2008.

The appeal in relation to quantum 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 22<sup>nd</sup> December, 2008. At the hearing the appellant was represented by Mr. Eamonn Halpin, BSc, ASCS, MRICS, MIAVI of Eamonn Halpin & Co. Ltd. Mr. Liam Diskin, BSc, District Valuer and Mr. Joe McBride, a Team Leader in the Valuation Office, represented the respondent. At the oral hearing both parties, having taken the oath, adopted their précis as being their evidence-in-chief.

### **Location**

This property is located within the Rathcoole Shopping Centre in Main Street, Rathcoole, Co. Dublin.

### **Description**

The subject property is a Centra supermarket with off-licence located on a corner site of this small shopping centre. There is shared parking to the front and the unit has an external frontage of 12.9 metres. The gross internal area of the property is circa 276.90 sq. metres.

### **Valuation History**

The property was the subject of a revaluation as one of all rateable properties in South Dublin County Council Area. A proposed Valuation Certificate was issued on 5<sup>th</sup> June, 2007 indicating a net annual value of €102,500. No Representations were received. However, the NAV was reduced from €102,500 to €3,800 at Representations stage to bring the level in line with those of similar properties in the Rathcoole area. The valuation was appealed to the Commissioner on 6<sup>th</sup> February, 2008 and the appeal decision issued on 22<sup>nd</sup> July, 2008 with the valuation unchanged. An appeal to this Tribunal was filed on 14<sup>th</sup> August, 2008.

While the valuation in the Valuation List was €3,800 the respondent contended for a valuation of €3,000 before the Tribunal.

### **Appellant's Case**

Mr. Eamonn Halpin, having taken the oath, outlined to the Tribunal that the agreed area of the subject property measured on a gross internal basis was 276.90 sq. metres. He said that the subject property was located in a moderate area at the end of a block of retail units in Rathcoole. It is part of an old single storey, retail neighbourhood centre with a small car park to the front and its profile is not very attractive. Mr. Halpin stated that there is no market evidence to support a premium of approximately 50% on this unit over and above the level applied to the adjoining units. He said that there was a large amount of competition in the village, particularly with the opening of a number of new units over the past few years. He stated that the Commissioner's approach in this case calls into question the equity and integrity of this valuation declaring that the Commissioner has departed from his own zoning model, which he applied all over the village. This model, Mr. Halpin stated, appears to closely follow established passing rents as of September, 2005. Mr. Halpin stated that the appellant was seeking a substantial reduction to more fairly reflect their unit's relative value both within the development and against the broader locally established tone of the list in the Main Street in Rathcoole. He then referred to his comparisons, details of which are at Appendix 1 hereto:

1. Unit 1, Rathcoole Shopping Centre, adjoining the subject property. This unit is one of nine units in this centre valued on the zoning basis. Zone A is valued at €500 per sq. metre; Zone B at €250 per sq. metre, Zone C at €125 per sq. metre and a small external store valued at €25 per sq. metre.
2. The remaining 8 units in the Centre, excluding the subject property and Comparison No. 1 devalue at €500 per sq. metre Zone A.
3. Paddy Power, Main Street, Rathcoole, is also valued on a zoning basis.
4. Off-licence Comparison - O'Brien's Off-licence, Templeogue Village where the Off-licence is valued at €7, 306.
5. Spar, Rathcoole - the valuation here was reduced at Representations stage from €31,600 to €105,100 without agreement. Mr. Halpin acted for that appellant and a further appeal recommended by him was not filed as the client's interest in the property ceased at that time.

Mr. Halpin offered two methods of valuing the subject property:

(1) Zoning Method – with calculations as corrected by Mr. Halpin at hearing:

Shop Zone A	75 sq. metres	@ €500 per sq. metre	= €7,500
Shop Zone B	75 sq. metres	@ €250 per sq. metre	= €18,750
Shop Zone C	75 sq. metres	@ €125 per sq. metre	= €9,375
Shop Balance	51.9 sq. metres	@ €2.50 per sq. metre	= <u>€1,244</u>
NAV			€68,869

NAV Say €68,900

This valuation includes the off licence.

(2) Overall Method - with calculations as corrected by Mr. Halpin at hearing

Front shop	138.45 sq. metres	@ €323 per sq. metre	= €44,719
Rear shop, stores and staff area	138.45 sq. metres	@ €161.50 per sq. metre	= <u>€22,360</u>
Total NAV			€67,079

NAV Say €67,000

### **Cross Examination**

Mr. Halpin in reply to the Tribunal stated that the subject property should be valued on a zoning basis as this method has been adopted for the revaluation of similar properties in the village of Rathcoole. In reply to Mr. Diskin, he stated that he had no disagreement with the Commissioner's valuation of €500 per sq. metre Zone A on property in Rathcoole. Mr. Halpin agreed that the subject property was the anchor tenant in Rathcoole Shopping Centre. He also agreed that the other units in the shopping centre measured only 65 sq. metres as against the subject at 276.90 sq. metres. Mr. Diskin stated that all anchor units in South Dublin rating area were valued not on a zoning basis but on an overall basis. Mr. Halpin agreed with Mr. Diskin that his valuation of €67,000 on the subject property equates to €242 per sq. metre and that he did not have any comparison properties from the Rathcoole area valued at this level. Mr. Halpin agreed with Mr. McBride, Team Leader in the Valuation Office, that there is a practice now established by policy of the Valuation Office to apply an addition of 15% on the NAV to a maximum of €10,000 to represent an off-licence within any property.

## **Respondent's Case**

### **Mr. McBride's Evidence**

Mr. McBride, having taken the oath, stated that he was here to help the Tribunal in relation to the value of off-licences for the revaluation of South Dublin. The off-licences were given to Mr. Hicks, an experienced Valuer in the Valuation Office, to value. As a result of his findings it was found that an addition for the off-licence was necessary in all properties where off-licences were involved. This was to be fair to the on-trade business who would have their off-licence valued in relation to their business. It would be unfair for off-licences who are selling liquor and competing with pubs not to make an addition for this value. The Valuation Office found as a result of their research in relation to market evidence that an off-licence of this type would make in the region of €170,000 at the valuation date. Mr. McBride stated that there are two types of licences, one where an existing off-licence is purchased and the other where a seven day licence is purchased and converted to an off-licence. Based on the research done by Mr. Hicks it was found that an addition of 15% on top of the NAV up to a maximum of €10,000 would be an equivalent correct amount to add for the value of the off-licence. This is a maximum figure. It would be inequitable to apply this figure to small off-licences and that is the reasoning behind the 15%. Mr. Mc Bride stated that there were 56 properties in South Dublin with additions for off-licences. Apart from Mr. Halpin's 3 cases this method has been accepted by all the agents involved in off-licence valuations. Mr. McBride handed in a document which stated the Valuation Office policy in this matter and which also contained details of the number of such properties valued in the South Dublin revaluation and in which the valuation addition on the off-licences was uncontested. Mr. McBride added that the list the Valuation Office relied on for off-licences was the District Court List of off-licences.

### **Cross-examination of Mr. McBride**

Mr. McBride clarified for the Tribunal some figures/entries in a document he had handed into the hearing and given to Mr. Halpin and adopted as part of the respondent's evidence.

In response to questions from Mr. Halpin, Mr. McBride:

1. Confirmed that Mr. Hicks was involved in valuing 10 off-licences and that as a result of that the document he handed in was the procedure that was put together;
2. Confirmed that there was market evidence supporting the procedure adopted and agreed that Mr. Halpin had not seen that evidence;

3. Said that it would be unfair to value pub licences without taking some account of off-licences and that the Valuation Office had tried to bring some equality back into the on-trade/off-trade business;
4. Said, in relation to pub off-sales, that he did not know what percentage off-sales were initially done at and that the valuation of pubs was not an issue in this case;
5. Said he was not familiar with the valuation scheme for pubs and could not answer as to whether the scheme had changed from its initial format and added that pubs were valued on an turnover basis – a completely different basis from that on which the subject was valued;
6. Said, in relation to large stores - Dunnes Stores, Tesco, Supervalu and Aldi - that the value added for the off-licence is the same for all off-licences regardless of size;
7. Said that the addition was made for all off-licences and that the one exception cited by Mr. Halpin was an oversight.

#### **Mr. Diskin's Evidence**

Mr. Diskin, having taken the oath, agreed with the appellant as to the location and floor area of the subject property. He said the property is a Centra Supermarket with an off-licence and is in excellent condition. This property is the anchor unit in a small shopping centre on Main Street, Rathcoole Village, Co. Dublin. There is parking to the front. He assessed the rateable valuation as follows:

Block 1. Shop 276.90 sq. metres @ €300 per sq. metre	= €3,070
Off Licence	= <u>€10,000</u>
NAV	= €3,070
Say €3,000	

Mr. Diskin stated that Valuation Office policy in relation to the revaluation of South Dublin was not to zone anchor units in shopping centres. He stated that off-licences were valued as a fixed addition of 15% on NAV up to a maximum of €10,000. His first two comparisons located at Main Street, Rathcoole are convenience stores. Comparison No. 1, Spar 8 till Late - has a shop valuation of €300 per sq. metre and the off-licence is valued at €10,000. This property, he noted, has excellent road frontage and similar fit-out to the subject. His second comparison, Tesco Express Rathcoole, has a shop valuation of €340 per sq. metre. The off-licence was not valued due to an error in the Valuation Office. His third comparison, Bank of

Ireland, Rathcoole, has a floor area of 341 sq. metres which is valued on an overall basis at €400 per sq. metre. It has external frontage of 13 metres. His fourth comparison, Rathcoole Pharmacy, a zoned retail property adjoins the subject in Rathcoole Shopping Centre. It has external frontage of 5 metres. The retail area is 30.50 sq. metres. Zone A is valued at €500 per sq. metre. His fifth comparison, A.T. Donovan, is valued at €500 Zone A.

Details of Mr. Diskin's comparisons are at Appendix 2 to this judgment.

### **Cross Examination of Mr. Diskin**

Mr. Diskin, in reply to the Tribunal stated that after areas were agreed with Mr. Halpin at 276.9 sq. metres, the valuation was reduced from €3,800 to €3,000.

In reply to Mr. Halpin, Mr. Diskin stated that the Bank of Ireland should have been valued on a zoning basis. Mr. Halpin stated that he felt that the Bank of Ireland was then an unreliable comparison. Mr. Diskin disagreed. Mr. Halpin asked Mr. Diskin why the Commissioner of Valuation had not valued the subject property on a zoned basis similar to other properties in Rathcoole. Mr. Diskin replied that zoning was applied to smaller units. Mr. Diskin agreed that there is a difference between convenience shops of 200 sq. metres and those of 800 sq. metres. He also agreed that the reason the subject property was not valued on a zoned basis was because of its size.

In his summary, Mr. Halpin stated that the subject property is not more valuable than the adjoining retail properties in the same small retail centre. He said that if anything this slightly larger unit should be worth slightly less per sq. metre allowing for shape, size and layout. The local comparables clearly establish the local tone at this location and he felt that there is no evidence to support the Commissioner's approach. Mr. Halpin also felt that there is no market support from the actual lettings for the Commissioner's addition for the off-licence. Additionally, he claimed that it is inequitable to add for this item in this case when the Commissioner has added a lesser amount for the licence in a stand alone off-licence property. Mr. Halpin felt it was unfair to value the subject at a higher level than that applied to other retail properties in the same Main Street.

Mr. Diskin in his summary stated that the valuation of €3,000 was fair and equitable and that it was supported by relevant comparable properties from the Valuation List adding that

values placed on these properties derive from an analysis of market evidence in the Rathcoole area. The subject property was valued in line with similarly circumstanced properties in Rathcoole and valued on an overall basis, as is the policy in South Dublin rating area for an anchor unit. He stated that Mr. Halpin's valuation of €67,000 on an overall basis equates to €42 per sq. metre. This valuation was not supported with any market evidence or comparable properties in the Valuation List.

### **Findings and Determination**

The Tribunal having considered carefully all the evidence and arguments adduced by the parties makes the following findings:

1. The Tribunal finds no argument to support the adoption of a zoning approach for rating purposes for convenience stores from areas similar to subject.
2. The Tribunal notes that both parties agreed that the subject property was the largest unit in the development with double frontage and return frontage.
3. The Tribunal notes from Mr. McBride's evidence that, out of a total of 56 properties in South Dublin valued with additions for off-licences, 53 were accepted/agreed by the occupiers and/or their agents and only 3 were appealed to the Tribunal.

Having regard to the above findings, the Tribunal determines that the respondent's valuation of the subject property, as amended to €3,000, is fair and reasonable and therefore affirms that valuation.

And the Tribunal so determines.