

Appeal No. VA08/5/154

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

**Mr. Paul Gilmore t/a Spar**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property No. 448936, Supermarket at Main Street, Saggart, County Dublin

**B E F O R E**

**John Kerr - Chartered Surveyor**

**Deputy Chairperson**

**Mairéad Hughes - Hotelier**

**Member**

**Michael F. Lyng - Valuer**

**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 in fixing a valuation of €78,400.00 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 S.23 of the Valuation Act, 2001, i.e. he did not publish or make available 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 19<sup>th</sup> January, 2009. At the hearing the appellant was represented by Mr. Eamonn Halpin, BSc, ASCS, MRICS, MIAVI of Eamonn Halpin & Co. Ltd. Ms. Deirdre McGennis, BSc, MSc, MIAVI, a Valuer in the Valuation Office, represented the respondent. Mr. Joe McBride, a Team Leader in the Valuation Office, also attended. At the oral hearing both parties, having taken the oath, adopted their précis as being their evidence-in-chief.

### **Valuation History**

The property was the subject of a revaluation as one of all rateable properties in the South Dublin County Council rating area. A Valuation Certificate (proposed) issued on 5<sup>th</sup> June, 2007 with a valuation of €79,900. Representations were made on 27<sup>th</sup> June, 2007 but the valuation remained unchanged. An appeal to the Commissioner, lodged on 8<sup>th</sup> February, 2008, resulted in a reduction to €78,400 to make allowance for revised areas. An appeal was lodged to the Valuation Tribunal on 14<sup>th</sup> August, 2008.

### **The Property**

The subject property is located on Main Street, Saggart, Co. Dublin, which is about 14km from the city centre. It is a single storey unit and trades as a supermarket and also has a Post Office and off-licence within the unit. There is a separate storage area to the left side rear of the building. The subject property is held freehold.

### **Accommodation and Area**

The accommodation and agreed floor areas, measured on a net internal area basis, are:

Blocks 1 & 2	Zoned Area	270 sq. metres
Block 3	Office	13.20 sq. metres
Block 4	External Store	43.50 sq. metres
Block 5	Cold Store	13.39 sq. metres

### **The Appellant's Case**

Having taken the oath, Mr. Halpin adopted his précis as his evidence-in-chief. He began his evidence by saying that, due to difficulties with trading at the subject property, the proprietor has divided the shop to the front and has been seeking a tenant for an area of approx. 93 sq. metres but, to date, has not been successful. He said that Saggart was a small village with 4 retail properties and with very little activity in the village. Dunnes Stores opened a new store in Saggart in December 2008, after the revaluation date.

Mr. Halpin said that there were two issues that were being questioned about the valuation of the subject property, one being the quantum of the valuation and the other being the levy applied to the off-licence. He further stated that Rathcoole village, which is located close by and is much larger than Saggart, has about 50 retail units. He said that the location of the subject property is moderate and that values in Saggart village were only a fraction of those in Rathcoole and, accordingly, the value levels of the subject could not be as high per sq. metre as those in Rathcoole. He also said that he could not accept that there was any market evidence which supports the Commissioner's approach to applying a value premium to this unit. He contended that the subject is too large for the village and that, having regard to the area of the property, a quantum allowance should be considered.

Mr. Halpin argued that the Commissioner's methodology in making an addition for the off-licence was flawed. He referred to a document, submitted in evidence by Ms. McGennis, 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. He stated that it was inequitable to add €7,000 for full, purpose-built off-licences, as against €10,000 added for the off-licence in the subject property, which had much lower sales. Mr. Halpin added that there was no market evidence to support this approach. He said that as the subject property was now subdivided, any subsequent revisions would add less for the off-licence, even though sales would remain the same. He also said that there was no specific addition for an off-licence in the valuation of public houses, and this was penalising the appellant.

Mr. Halpin provided 5 comparisons (see Appendix 1 hereto) as follows:

Comparisons 1 & 2    Units 1 & 5 at Eaton House, Main Street, Rathcoole

Comparison 3	Paddy Power, Main Street, Rathcoole
Comparison 4	O'Brien's off-licence, Templeogue Village
Comparison 5	Spar, Rathcoole

Mr. Halpin offered 2 different valuation calculations in his précis amounting to estimates of value of €49,000 and €53,000 as follows:

Shop Zone A	81.26 sq. metres	@ €22.92 per sq. metre	= €26,240
Shop Zone B	75.94 sq. metres	@ €161.46 per sq. metre	= €12,259
Shop Zone C	75.94 sq. metres	@ €80.73 per sq. metre	= €6,131
Shop remainder	<u>36.86 sq. metres</u>	@ €40.365 per sq. metre	= €1,479
<b>Total Retail area</b>	<b>270 sq. metres</b>		
Office	13.20 sq. metres	@ €41.00 per sq. metre	= €541
Store	43.50 sq. metres	@ €41.00 per sq. metre	= €1,784
Cold store	13.39 sq. metres	@ €41.00 per sq. metre	= <u>€549</u>
			€48,993

Say €49,000

**OR**

Front shop	105.75 sq. metres	@ €269 per sq. metre	= €28,457
Rear shop	<u>164.25</u> sq. metres	@ €134.50 per sq. metre	= €22,092
<b>Total</b>	<b>270 sq. metres</b>		
Office	13.20 sq. metres	@ €41 per sq. metre	= €541
Store	43.50 sq. metres	@ €41.00 per sq. metre	= €1,784
Cold store	13.39 sq. metres	@ €41.00 per sq. metre	= <u>€549</u>
		Total NAV	€53,423

Say €53,000

In summary Mr. Halpin said that the subject is less valuable than similar properties in Rathcoole and that it was unfair to compare the subject with premises in Rathcoole which are not in the same location or similarly circumstanced. He said that there was no market support from actual lettings of comparable properties in Saggart to arrive at the suggested net annual value as none of the other properties in the village were leased except for the pharmacy. He

finished by stating that a hypothetical tenant would factor in the opening of Dunnes Stores in Saggart before a rental offer was made.

### **Cross examination**

Under examination by the Tribunal, Mr. Halpin was asked whether he was accepting the zoning approach to valuation to which he replied that he was comfortable with same on a general basis but that in this case he felt zoning was not appropriate as the market would not be guided by such an approach. When asked to comment on the estimates of value in his précis and on the apparent difference between Zone A and front shop Mr. Halpin explained that the subject is approximately 21 metres deep and that he calculated the front area to be approximately 8.5 metres, while he considered the balance would be the back part of shop.

Ms. McGennis asked Mr. Halpin if he would agree that a quantum allowance was made by the revaluation valuer to which he replied that there was some apparent reduction made but such was not sufficient.

### **Respondent's evidence**

Having taken the oath, Ms. Deirdre McGennis adopted her précis as her evidence-in-chief and provided the Tribunal with photographs of the subject property. Ms. McGennis confirmed the agreed areas and said that the subject property had an integrated Post Office. She said that she made a 10% quantum allowance from €500 to €450 Zone A in the subject, and that the Zone A level was made relative to other properties in the village of Saggart.

Ms. McGennis then confirmed details of her valuation as follows:

Retail Zone A	81.26 sq. metres	@ €450.00 per sq. metre	= €36,567
Retail Zone B	75.94 sq. metres	@ €225.00 per sq. metre	= €17,086
Retail Zone C	75.94 sq. metres	@ €112.50 per sq. metre	= €8,543
Retail Remainder	36.86 sq. metres	@ €56.25 per sq. metre	= €2,073
Office	13.20 sq. metres	@ €60.00 per sq. metre	= €792
Store	43.50 sq. metres	@ €60.00 per sq. metre	= €2,610
Cold store	13.39 sq. metres	@ €60.00 per sq. metre	= €803
Off Licence			<u>€10,000</u>
Total NAV			€78,474
Say	€78,400		

Ms. McGennis said that the above valuation devalues on an overall basis to €233 per sq. metre. She further added that it is Valuation Office policy to make an addition of 15% (up to a maximum of €10,000) to the net annual value for an off-licence to reflect its capital value.

Ms. McGennis then introduced her comparisons (see Appendix 2 hereto) as follows:

Comparison 1	Roma Take-away, Saggart
Comparison 2	Saggart Pharmacy
Comparison 3	The Anvil Restaurant, Saggart

Ms. McGennis said that her 3 comparisons were all located in Saggart, were smaller than subject but were all valued at €500 Zone A, whereas the subject was assessed at €450 Zone A.

### **Cross examination**

In response to the Chairperson Ms. McGennis clarified the Commissioner's approach in valuing off-licences. She confirmed that the addition for an off-licence was calculated on the net annual value assessed and not on the turnover of the subject business. She confirmed that 15% of the NAV would constitute a lower figure (€7,500 as opposed to €10,000) now that the property was subdivided.

Mr. Halpin asked Ms. McGennis where she sourced the market rental evidence in Saggart as no retail units were rented there. She replied that she looked to Rathcoole for rental evidence as both Saggart and Rathcoole share the same pool of shoppers and compete for the same business. She said that Rathcoole is an established village while Saggart is growing.

Mr. Halpin then asked Ms. McGennis if there was sufficient rental evidence to support a Zone A level of €500 for Rathcoole in the first instance, to which she again replied that she was guided by evidence from Rathcoole.

### **Findings and Determination**

The Tribunal has carefully considered all the evidence and arguments adduced by the parties and finds as follows:

1. Rathcoole has approximately 50 retail units including 3 major convenience stores such as Tesco Express.

2. Saggart is considerably smaller than Rathcoole with many fewer retail shops and offers no comparable retail convenience stores except for the subject.
3. Dunnes Stores, though imminent, had not opened for business as at the date of revaluation.
4. The subdivision of the subject property took place in 2008, after the valuation date.
5. The Valuation Office did not provide sufficient market evidence and the Tribunal notes, based on the direct evidence of the respondent, that 2 of the 3 comparators relied upon in the précis of evidence, are not rental properties but are actually owner occupied.
6. The Tribunal notes from the document submitted by respondent 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.

Having regard to the above findings, the Tribunal determines that the valuation of the subject property should be reduced as follows:

Retail Zone A	81.26 sq. metres	@ €400.00 per sq. metre	= €32,504
Retail Zone B	75.94 sq. metres	@ €200.00 per sq. metre	= €15,188
Retail Zone C	75.94 sq. metres	@ €100.00 per sq. metre	= €7,594
Retail Remainder	36.86 sq. metres	@ €50.00 per sq. metre	= €1,843
Office	13.20 sq. metres	@ €60.00 per sq. metre	= €792
Store	43.50 sq. metres	@ €60.00 per sq. metre	= €2,610
Cold store	13.39 sq. metres	@ €60.00 per sq. metre	= €803
Off-licence			<u>€10,000</u>
Total NAV			€71,334
Say	€1,000		

And the Tribunal so determines.