

Appeal No. VA08/5/170

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

The Molloy Group

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 407607, Off Licence at 3 Village Shopping Centre, Orchard Road,
Clondalkin, County Dublin

B E F O R E

John Kerr - Chartered Surveyor

Deputy Chairperson

Leonie Reynolds - Barrister

Member

Patrick Riney - FSCS.FIAVI

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 16TH DAY OF FEBRUARY, 2009

By Notice of Appeal dated the 18th day of August, 2008 the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €133,000.00 on the above described relevant property.

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

"The Valuation is excessive."

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 5th day of December, 2008. At the hearing the appellant was represented by Mr. John Algar, BSc (Property Valuation & Management) of Bardon and Co. Chartered Surveyors, Rating Consultants & Valuers. Mr. Christopher Hicks, 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 previously been received by the Tribunal and exchanged with the other party, as his evidence-in-chief.

History, Location & Description

The property is situated within the Village Shopping Centre, a small neighbourhood centre located on the west side of Orchard Lane at the junction with Watery Lane, close to the centre of Clondalkin village, circa 8 km south west of Dublin City Centre. This is a single, part two-storey open centre consisting of 9 retail units and a tarmacadamed car-park containing 18 car spaces. The occupiers include Molloy's Off-Licence, Subway, MABS, Himalaya Tandoori Restaurant, Hot House Hair and Beauty, Harmony Dry Cleaners, Traditional Pizza, William Hill and Wokshop Chinese.

The property comprises a part two-storey corner unit, which has been extended at the rear to include Units 2 and 3 of the Village Shopping Centre. The accommodation includes the retail area and a small cash office to the front with two stores and a cold store to the rear. There is a small first floor with restricted head room, two toilets, and a canteen, over the corner section (i.e. the original Unit 1), which also has dual frontages to both Watery Lane/the car-park and Orchard Lane. This unit has tiled floors, smooth plastered walls, timber framed windows and smooth plastered ceilings. The frontage is circa 17 metres, there is a minimum headroom of circa 2.7 metres in the retail area and circa 2.4 metres in the stores. The original Unit 3, despite having been a shop unit in its own right, with the same frontages and display windows as the other standard units in the centre, is now used only for goods, delivery and storage.

At the commencement of the hearing, the parties submitted revised agreed net internal floor areas as follows:

Ground Floor: 308.0 sq. metres or 3,315 sq. feet

First Floor: 26.56 sq. metres or 286 sq. feet

and made corresponding minor amendments to their respective estimates of value.

Appellant's Case

Mr. Algar referred in some detail to his submission and pointed out that Orchard Lane was mostly a residential road and from the research carried out by him, there was a planning restriction that the Village Shopping Centre could not have any pedestrian access from Orchard Lane in the interests of preserving the residential amenities of the houses on Orchard Lane and in the interests of traffic safety. He emphasised that the only access to the retail units in the Centre was from the Watery Lane side.

The subject unit was located at the corner of Orchard Lane and Watery Lane. Orchard Lane was now a one way system with all vehicular traffic coming from the Mill Centre which means that the unit is not facing the traffic flow and drivers would have to look behind them to see the unit. All traffic approaching Clondalkin from the Monastery Road, Main Street and Convent Road must travel right around the village to access the Centre. Mr. Algar also pointed out that the Village Shopping Centre had no anchor unit. The majority of small neighbourhood centres in South Dublin County Council area had an anchor unit which is usually a large convenience store or supermarket. There was originally a Spar trading in Unit 6 but this closed a number of years ago. The lack of a convenience store had created a disadvantage within this Centre.

All of the other retail units in this Centre had been valued using a zoning method approach at a Zone A level of €500 per sq. metre, yet the revaluation valuer had chosen to value the subject unit on an overall basis at a level of €400 per sq. metre. Mr. Algar pointed out that the majority of units within the Centre were circa 60 to 80 sq. metres in size, apart from the subject unit which is 308 sq. metres and Unit 6 which is 363.3 sq. metres. He pointed out that Unit 6 was currently trading as a restaurant with frontages to both Watery Lane and Orchard Lane. This unit had been valued using a zoning method at a Zone A level of €500 per sq. metre, and was zoned back from the Watery Lane side. In view of this, he could not understand how the revaluation valuer could apply an overall level of €400 per sq. metre to the subject unit.

Mr. Algar also referred to an off-licence unit on the Ninth Lock Road within a development known as Elmfield Court. He stated Bardon and Co. acted on behalf of Xtra-Vision when

they lodged an appeal to the Valuation Office. The Valuation Office took the view that since Xtra-vision is considerably larger than all of the other units in the development, it should be valued at a lower level. The revaluation valuer pointed out in his appeal report that the carry-out off-licence is valued at €750 per sq. metre for Zone A, while the Xtra-Vision is valued at €550 per sq. metre for Zone A with an additional 10% reduction on the basis that it had a considerably larger frontage. On the basis of that evidence he believed that since the Zone A level was reduced from €750 per sq. metre to €500 per sq. metre for Xtra-Vision, the Zone A level on Orchard Lane could be reduced from €700 to €500 for the subject unit on the basis that the three units quoted by the revaluation valuer were located in a better location and are considerably smaller. He added that this would bring the Zone A level in line with all the other units in the Village Shopping Centre.

In referring to his comparisons (attached at Appendix 1 to this judgment) Mr. Algar made the following points:

Comparison No. 1: Himalaya Tandoori Restaurant, Unit 6, Village Shopping Centre, Clondalkin. This unit had a total floor area of 363.3 sq. metres and had been valued on an overall basis at €208.91 per sq. metre. Alternatively using a zoned basis, this unit was valued at €500 per sq. metre Zone A and giving a valuation of €75,913.

Comparison Nos. 2 & 3: Xtra-Vision Limited, Unit 2, Elmfield Court, Clondalkin and Stanley Racing, Unit 10, Village Shopping Centre, Clondalkin had both been valued on a zoned basis at €550/€500 per sq. metre respectively.

Comparison No. 4: Molloy's Off-Licence at the Village Green Shopping Centre, Tallaght, which had a net internal floor area of 258 sq. metres, had been valued on an overall basis at €92.25 per sq. metre, giving a valuation of €5,400.

Comparison No. 5: Spar at the Village Green Shopping Centre in Tallaght having a net internal area of circa 225.86 sq. metres, had been valued on both an overall basis at €81.15 per sq. metre and on a Zone A basis at €500 per sq. metre, giving a valuation of €63,500.

In view of the foregoing Mr. Algar submitted his opinion on the valuation attaching to the subject premises as follows and based on the agreed revised areas:

(a) On an overall basis

Ground floor: 308.00 sq. metres	@	€280 per sq. metre	= €86,240
First floor: 26.56 sq. metres	@	€100 per sq. metre	= €2,656
Off Licence:			= <u>€10,000</u>
			= €98,896

Say €98,800

(b) On a zoned basis

Zone A	99.10 sq .metres	@ €500 per sq. metre	= €49,550
Zone B	99.30 sq. metres	@ €250 per sq. metre	= €24,825
Zone C	65.60 sq. metres	@ €125 per sq. metre	= €8,200
Zone D	44.00 sq. metres	@ €62.50 per sq. metre	= €2,750
First floor	26.60 sq. metres	@ €100 per sq. metre	= €2,660
Add for off-licence			= €10,000
Total:			€97,985

Cross Examined by Mr. Hicks

Mr. Algar accepted that the location map submitted in his précis did not fully reflect the details on the ground and that the ordnance survey map, as submitted by the respondent, more accurately reflected the detailed layout of the subject property within the general area. He also accepted that his Comparison No. 1, Himalaya Tandoori Restaurant, Unit 6, Village Shopping Centre, only had a frontage of circa 10 metres to the Orchard Lane/car-park, while the subject property had a frontage of circa 17 metres. However, he had taken account of this advantage in his assessment of a reasonable valuation. He also accepted that Molloy's unit had both Orchard Lane and Watery Lane frontages and that Zones C & D could be assessed at the same level per sq. metre.

In regard to his Comparison No. 2, Xtra-Vision Limited, Unit 2, Elmfield Court, Clondalkin, Mr. Algar accepted it had the equivalent of 3 frontages. While it was understood the standard units at Elmfield Court had rented at circa €45,000 per annum each, he could not elaborate as to why this unit had been leased at €82,550 per annum and as to why part of the shop front appeared to be covered up. He also stated that his Comparison No. 4, Molloy's Off-Licence at the Village Green Shopping Centre, Tallaght, was in a similar position to his Comparison

No. 5, Spar, Village Green Shopping Centre, Tallaght, which had been valued on a zoned basis at €500 per sq. metre.

Respondent's Case

Mr. Christopher Hicks referred to his submission in some detail and in particular pointed out the main section of the unit i.e. Unit 1, faces the junction of Watery Lane and Orchard Lane. This had been extended at the rear into two of the standard units i.e. Units 2 and 3. He stated that Unit 1 was a two-storey corner unit, with the entrance to Unit 3 from the car-park that was used for goods and storage access. This area was primarily used for cold storage, other stores and had a frontage/display area on to Orchard Lane.

He considered that properties comparable to the subject off-licence should include all retail outlets whether licensed or not and that an addition should be made for the license to be 15% of the property unlicensed, and to a maximum of €10,000. He also stated that this had been accepted by the appellant.

In referring to his 5 comparisons (attached at Appendix 2 to this judgment), Mr. Hicks made the following points:

Comparisons No. 1 & 2, Andy Doyle t/a Village Hardware and Freyne's Pharmacy both had frontages onto Orchard Lane and had been valued on a zoned basis using a Zone A rate of €700 per sq. metre.

Comparison No. 3, Lynam's Builders Providers, is located directly opposite the subject property with a frontage to Watery Lane. It has a retail area of circa 110 sq. metres, car-parking to the front and side of the property, and had been valued on a Zone A basis of €600 per sq. metre.

Comparison No. 4, Westside Picture Frames, Unit 4, Village Shopping Centre had a floor area of circa 58 sq. metres and the Zone A level applied here was €500 per sq. metre. This unit is a standard unit in the same development as the subject and immediately adjoins it.

Comparison No. 5, Molloy's Off-Licence in Tallaght - he stated this unit was valued on the basis of levels applying in the locality on a zoned basis of €578 per sq. metre for Zone A and on an overall basis this equated to €292 per sq. metre.

Mr. Hicks contended for a valuation of €133,000 calculated as follows and based on the agreed revised areas:

Zone A	99.10 sq. metres	@ €682 per sq. metre	= €67,586
Zone B	99.30 sq. metres	@ €341 per sq. metre	= €33,861
Zone C	65.60 sq. metres	@ €170 per sq. metre	= €11,152
Remainder	44.00 sq. metres	@ €170 per sq. metre	= €7,480
First floor	26.60 sq. metres	@ €100 per sq. metre	= €2,660
Licence:			= <u>€10,000</u>
Total NAV =			€132,739

Or

Overall ground floor	308 sq. metres	@390 per sq. metre	= €120,120
First floor and licence			= <u>€ 12,660</u>
Total NAV =			€132, 780

Examined by the Tribunal

Mr. Hicks was asked to explain why he had applied a Zone A rate of €700 per sq. metre to the subject property, while a Zone A rate of €500 per sq. metre had been applied to the adjoining property, his Comparison No. 4, Westside Picture Frames, Unit 4, Village Shopping Centre. Mr. Hicks stated the primary reasons were that Unit 4 was a much smaller unit, was substantially different to the subject property and only had a frontage to the car-park and to Watery Lane. He reiterated his point that the subject property occupied a prominent corner location with frontages to both Watery Lane and Orchard Lane and, that in his opinion, Comparisons No. 1 and No. 2 in his submission which had frontages to Orchard Lane and had a Zone A rating of €700 per sq. metre, were more relevant to the subject property.

Cross Examined by Mr. Algar

While Mr. Hicks accepted that his Comparisons No. 1 and No. 2 were closer to the Village Centre of Clondalkin, he pointed out that rates per sq. metre for Zone A in the order of €50

per sq. metre had been used for units nearer the centre of Clondalkin. He also pointed out that his comparison No. 4 was now trading as a Subway unit.

Summary

Mr. Algar briefly summarised his case stating that he also had used local comparisons, in particular his Comparison No. 1, Himalaya Tandoori Restaurant and referred to the respondent's Comparison No. 4 which was immediately next door to the subject property.

Mr. Hicks briefly summarised his case stating that the subject property was a prominent unit within the Village Shopping Centre and that it had been valued primarily on the basis of local comparisons.

Findings and Determination

1. The Tribunal, having considered all of the evidence, finds the zoning basis of valuation to be of greater assistance to the Tribunal in assessing a reasonable valuation and requests that the methodology used by the parties should, in future, be set out in more detail, in order to enable the Tribunal arrive at a fair and reasonable final assessment.
2. The Tribunal considers that the respondent's Comparison No. 4, Westside Picture Frames, Unit 4 in the Village Shopping Centre, as outlined in the respondent's submission and the appellant's Comparison No.1, Himalaya Tandoori Restaurant, Unit 6 in the Village Shopping Centre, Clondalkin, to be of greatest assistance to it in determining a reasonable valuation.
3. The Tribunal considers that Zones C and the 44 sq. metres described as Zone D in the appellant's submission and as Remainder in the respondent's submission, should be treated as a combined Zone C, giving an area of 109.6 sq. metres.
4. While Comparisons 1 and 2 in the respondent's submission are of some assistance to the Tribunal, it is considered they are quite different to the subject property for the following reasons:
 - (a) They are much smaller units than the subject property.
 - (b) They both occupy sites with frontages to Orchard Lane.
 - (c) Both of these units are nearer to the core of Clondalkin Village Centre.

5. Having heard all the oral evidence and submissions, and having considered the préces lodged herein, the Tribunal finds that in view of:

- (a) The dual frontage occupied by the subject property to both Orchard Lane and Watery Lane;
- (b) The more prominent two-storey corner location occupied by Units 1, 2 & 3, the Village Shopping Centre;
- (c) The use of this unit as an off-licence;

the valuation of the subject property is €18,350 calculated as follows:

Zone A	99.10 sq. metres	@ €600 per sq. metre	= €59,460
Zone B	99.30 sq. metres	@ €300 per sq. metre	= €29,790
Zone C	109.60 sq. metres	@ €150 per sq. metre	= €16,440
First floor	26.60 sq. metres	@ €100 per sq. metre	= €2,660
Licence			= <u>€10,000</u>
Total NAV =			€18,350

And the Tribunal so determines.