

Appeal No. VA09/4/017

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

David Moloney

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2199424, Shop at Lot No. Unit 1A, Flr 0, The Bridge, Dungarvan,
Dungarvan No. 1 Urban, Dungarvan UD, Co. Waterford

B E F O R E

Maurice Ahern - Valuer

Deputy Chairperson

Veronica Gates - Barrister

Member

Niall O'Hanlon - BL

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 4TH DAY OF JUNE, 2010

By Notice of Appeal dated the 10th of December, 2009, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €230 on the above-described relevant property.

The grounds of appeal are set out in the Notice of Appeal and a letter attached, copies of which are at Appendix 1 hereto.

Oral Hearing

The oral hearing in respect of this appeal took place on 17th February, 2010. The appellant, Mr. Moloney, appeared in person and Ms. Angelina Scanlan, BSc, MIAVI, a Valuer in the Valuation Office, appeared on behalf of the respondent.

Written Submissions

The following written submissions were received by the Tribunal and exchanged between the parties:

1. A submission dated 1st February, 2010, from the appellant, Mr. David Moloney.
2. A submission on behalf of the respondent dated 3rd February, 2010, from Ms. Angelina Scanlan, on behalf of the respondent.

The Property

The subject property is located in 'The Bridge' development in Dungarvan, Co. Waterford. The said development consists of seven retail units on the ground floor, two office suites and 42 one- and two-bedroom apartments located in the upper floors of the development. The Bridge was developed in or about 2007, adjacent to the site of the Glanbia milk processing plant which was demolished a number of years ago to make way for the Dungarvan Shopping Centre development. The Dungarvan Shopping Centre consists of 42 retail units and incorporates a cinema and civic plaza which links the Shopping Centre to Grattan Square. Dungarvan Shopping Centre offers approximately 600 parking spaces. The anchor tenant of the Shopping Centre, Dunnes Stores, is located within the main enclosed shopping mall.

The Bridge is located in the centre of the town, alongside the traditional main shopping streets. It is also located in close proximity to the civic offices accommodating the administrative offices of Waterford County Council and Dungarvan UDC. The subject property fronts onto the new civic plaza. The Town Council pay-and-display carpark (58 car parking spaces) is located directly in front of the subject property and further pay-and-display parking is located on nearby Grattan Square.

The subject property is Unit 1A The Bridge. This is a modern, well fitted shop unit. Internally, the subject unit has suspended ceilings with integrated fluorescent lighting and painted and plastered walls. The main entrance to the shop unit fronts onto the surface car park in the Civic Plaza and there is also an additional alternative entrance to the unit which is

located to the side of the premises. The unit incorporates the main retail area, with a section partitioned off at the rear as a canteen and a w.c. The unit is finished to the same standard throughout.

Valuation History

On 4th March, 2009 a draft certificate was issued with a rateable valuation of €230. No representations were submitted. On 8th April, 2009 a final certificate was issued with a rateable valuation of €230. On 18th May, 2009 an appeal was submitted. On 17th November, 2009 the Appeal Officer made no change to the valuation. The matter now comes before the Valuation Tribunal.

Appellant's Evidence

Mr. Moloney, in his oral evidence, adopted his written précis as his evidence-in-chief. Mr. Moloney stated that a hardware business operated from the subject property. He stated that the said property was to the side of Dungarvan Shopping Centre rather than being adjacent to it. He further stated that the nearest parking space to the property was in or about 50.5 feet away and that the property did not benefit from the alternative side entrance, which opened out onto T.F. Meagher Street. Mr. Moloney contended that this street had been left derelict by the Council for a number of years and was, therefore, virtually unapproachable by car. Mr. Moloney also contended that the subject premises were blocked from attracting customers because of an underground car park entrance – this entrance blocked people from walking to the premises. Mr. Moloney argued that the standard valuation was based on an operating area of 320.33 sq. metres and that account should have been taken of the areas set aside for storage, office, showroom, toilet and canteen facilities.

In his evidence, Mr. Moloney stated that the Standard Valuation Report had sub-divided the subject property into five blocks: Block 1, being the area next to the main entrance and catering for fast moving retail goods; Block 2, catering for a range of small low value hardware products – this area also included an office; Block 3, catering for a range of basic hardware products and also including a showroom area; Block 4, catering for paint and specialised lacquers and containing a storage area and; Block 5, catering for plumbing and flooring and also containing a canteen and toilet area and an area set aside for plumbing storage. Mr. Moloney argued that Blocks 2 to 5 were simply less valuable than Block 1. His evidence was to the effect that the shop was very deep and that most people who entered to

browse did not go all the way to the back of the shop. He submitted that the areas further into the shop should have a lower value than the area immediately by then entrance.

In relation to the comparisons upon which he placed reliance, Mr. Moloney stated the first comparison, Thomas Curran, had a narrow front, was rectangular and had parking in front. He stated that his second comparison, Matthew Connolly, was comparable in size and turnover and the building was similar to the subject property. Mr. Moloney indicated that his third comparison, Tom Curran Homestyle, was ten times the size of the subject property. Details of Mr. Moloney's comparisons are attached at Appendix 2 hereto.

In cross-examination, it was put to Mr. Moloney by Ms. Scanlan that the car park was located at the front of the unit. She also pointed out that at page 3 of her written submissions, a photograph of the subject premises showed two vehicles parked immediately in front of the premises. Mr. Moloney replied that he was not denying that there was a car park. When asked by Ms. Scanlan, Mr. Moloney stated that there was a 30-second walk from the car park to the front of the subject property.

Ms. Scanlan put it to Mr. Moloney that the best comparison was the closest, which proposition he accepted. She went on to put it to Mr. Moloney that his first comparison, Thomas Curran, a premises from which a builder's provider's business operated, had in fact been valued in 1958. Mr. Moloney replied that the information on which he had relied in that regard had been downloaded from the Valuation Office website.

Ms. Scanlan put it to Mr. Moloney that his second comparison, Matthew Connolly, a premises from which a pharmacy was operated, only had about half the frontage of the subject property, that it was a long narrow shop and, that as it was located on the main street of Dungarvan, it was well removed from the subject property. Mr. Moloney contended that the front of a shop was more valuable than the rear and that whilst Matthew Connolly had access from two high footfall areas, the subject property did not. He re-iterated that the subject property did not benefit from footfall at its side entrance. Ms. Scanlan also contested the relevance of the third comparison, Tom Curran Homestyle, on the basis that it was a retail warehouse.

Ms. Scanlan noted that whilst Mr. Moloney was contending that certain areas should be excluded in arriving at a valuation of the subject property, the valuations for all her comparisons had been arrived at on a Gross Internal Area basis.

Ms. Scanlan noted that in his written submissions Mr. Moloney had advanced two rateable valuations, i.e. €15 and €129.69 and asked which he was seeking. Mr. Moloney replied that he was seeking a figure in the vicinity of the two referred to in his submissions. Ms. Scanlan contended that Mr. Moloney was in effect seeking a reduction of 50% in the valuation under appeal. In reply, Mr. Moloney stated that all he was seeking was a fair valuation.

Respondent's Evidence

Ms. Scanlan in her oral evidence adopted her written précis as her evidence-in-chief. Ms. Scanlan stated that there were 58 parking spaces directly in front of the property. She further stated that it was not the case that the subject property was cut off from pedestrian traffic and she said that people could walk to the said property. She also indicated that it was her view that the subject property was not unusually deep.

Ms. Scanlan noted that Mr. Moloney had contended that no valuation should be applied to certain areas. She went on to contend that these areas had resulted from temporary internal divisions and that Gross Internal Area was the appropriate basis for valuation purposes.

Ms. Scanlan stated that her first comparison, Sam McCauley Pharmacy, had a rate of €143.50 per square metre for the shop part of the premises and a rate of €41.00 per square metre for the first floor store. Her second comparison, The Skillet Pot, a restaurant, had a rate of €70.00 per square metre. Her third comparison, Unicare Pharmacy, had a rate of €70.00 per square metre. Her fourth comparison, O'Dwyer's Footwear had a rate of €64.00 per square metre. Ms. Scanlan's fifth comparison, Sherry Fitzgerald Reynolds, had a rate of €143.50 per square metre for the shop/office part of the premises and a rate of €41.00 per square metre for the store. A copy of Ms. Scanlan's comparisons are attached at Appendix 3 hereto.

Ms. Scanlan stated that unlike Mr. Moloney's first comparison, the subject property was a modern retail unit. Ms. Scanlan went on to state that the subject property had double the frontage of Mr. Moloney's second comparison; that the latter property was unusually deep;

whereas the subject property was not. Ms. Scanlan also said that Mr. Moloney's second comparison was 90 square metres smaller than the subject property and was quite a distance away from the subject property. Ms. Scanlan re-iterated her view that the third comparison relied on by Mr. Moloney was not a suitable comparison as it was in fact a retail warehouse.

In cross-examination Mr. Moloney put it to Ms. Scanlan that works had been due to begin on T. F. Meagher Street for the last two years. Ms. Scanlan indicated that it was her understanding, arising out of enquiries that she had made prior to the hearing, that works were due to begin on the street the following week.

It was put to Ms. Scanlan that the subject property did not have an air conditioning system, it had a heat recovery system. In reply, Ms. Scanlan indicated that no premium had been added for an air conditioning system.

Mr. Moloney also put it to Ms. Scanlan that other properties had storage facilities and that the subject property did not have such facilities. Ms. Scanlan replied that whilst other properties might have storage facilities, such facilities were finished to a very basic standard whilst in the case of the subject property the entire unit was finished to the same standard and that partitions were a matter for the occupier of a premises.

Mr. Moloney also contended that the car park created a line of sight barrier for the subject premises and that the flow of pedestrian traffic was directed into the shopping centre but not into the subject premises. Mr. Moloney further put it to Ms. Scanlan that her third comparison, the Unicare Pharmacy, had three points of entry. This was accepted by Ms. Scanlan but she pointed out that it had a higher valuation than the subject property.

Mr. Moloney put it to Ms. Scanlan that her fifth comparison, the Sherry Fitzgerald Reynolds premises, had a much larger frontage and was in a stronger location. Branches of the Bank of Ireland, Allied Irish Banks and the Post Office were nearby and therefore the fifth comparison would have a high footfall. Ms. Scanlan replied that the fifth comparison had a very large frontage – the frontage to depth ratio was far from ideal. In addition the fifth comparison was an L shaped unit whilst the subject property was more rectangular and therefore more ideal.

Mr. Moloney put it to Ms. Scanlan that her first comparison, Sam McCauley, backed onto two premium shopping areas. Ms. Scanlan stated that that property was L shaped and that the rectangular shape of the subject premises was more advantageous.

In his submissions Mr. Moloney stated that he was seeking a fair valuation of the subject property and that the valuation argued for by Ms. Scanlan was too high, considering its location and access points. The comparisons relied upon by Ms. Scanlan had higher footfall. He re-iterated his view that there were certain areas of the shop that could only be used for storage, office, showroom, toilet and canteen facilities.

In her submissions Ms. Scanlan stated that the subject property was a modern unit in the heart of the shopping area of Dungarvan. She stated that the comparisons upon which she had placed reliance were all close to the subject property. Two of the comparisons were in the same development. Ms. Scanlan noted that it was possible to park outside of the subject property and that it would not take long to go from the car park to the said property. Ms. Scanlan stated that the subject premises had been valued in accordance with the tone of the list and having regard to its size and location. Ms. Scanlan further noted that it was apparent that the subject property was valued at the lower end of the scale when one took into account the comparisons upon which she had placed reliance. Ms. Scanlan re-iterated that all the comparisons had been valued on a Gross Internal Area basis.

Findings

1. The Tribunal, in reaching its decision, has had regard to the evidence adduced by the parties and the submissions that they have made.
2. Having regard to the uncontested evidence before it, that the blocks referred to by Mr. Moloney in his evidence and submissions, resulted from temporary internal divisions, the Tribunal accepts the submission of Ms. Scanlan that Gross Internal Area is the appropriate basis for valuation in the present proceedings. The Tribunal also accepts the evidence of Ms. Scanlan that the subject property is not unusually deep and that no premium had been added for an air conditioning system.
3. The Tribunal has had regard to the comparisons advanced by the parties. The Tribunal notes that it was not contested that the comparisons advanced by Ms. Scanlan were close

to the subject property and that two of the comparisons were in the same development. The Tribunal also notes that it was not contested by Mr. Moloney that the first comparison that he advanced was valued in 1958 and that the second comparison was some distance away from the subject property. The Tribunal accepts Ms. Scanlan's submission that the third comparison was not a suitable comparison in that it is in fact a retail warehouse. Accordingly, the Tribunal prefers the comparisons advanced by Ms. Scanlan.

4. The Tribunal also prefers the evidence of Ms. Scanlan in relation to the issue of car parking and the flow of pedestrian traffic around the subject property.
5. The Tribunal accepts the evidence of Mr. Moloney regarding the condition of T. F. Meagher Street, however it notes that it was not contested that the subject property was valued at the lower end of the scale when considered against the comparisons advanced by Ms. Scanlan.
6. Having regard to the evidence, the Tribunal accepts Ms. Scanlan's submission that the subject property was valued in accordance with the tone of the list.

Determination

In conclusion, having considered the evidence and submissions of the parties the Tribunal is satisfied with the method adopted by Ms. Scanlan in assessing the rateable valuation and is further satisfied that the rateable valuation should be affirmed at €230 in respect of the subject property.

And the Tribunal so determines.