

Appeal No. VA11/5/082

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

Hettie Black

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2200179, Retail (Shops) at Unit B1, Block B, The Forum, Ballymoss Road, Sandyford Industrial Estate, County Dublin.

B E F O R E

John F Kerr - BBS, FSCSI, FRICS, ACI Arb

Deputy Chairperson

Fiona Gallagher - BL

Member

Michael Connellan Jr - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 11TH DAY OF JANUARY, 2012

By Notice of Appeal dated 12th day of July, 2011 the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €6,200 on the above described relevant property.

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

"The valuation is excessive having regard to the passing rent & poor location"

The appeal proceeded by way of an oral hearing at the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 28th day of October 2011. At the hearing the appellant was represented by Mr. Declan Bagnall, Chartered Surveyor, MRICS, MSCSI, and the respondent by Mr Dean Robinson BSc (Hons) Surveying, a Valuer in the Valuation Office. At the hearing, both parties, having taken the oath, adopted their respective précis as their evidence-in-chief.

Test Case

In accordance with an agreement reached between the parties prior to the oral hearing, this appeal is a test case for itself and for VA11/5/083 – Hettie Black. The determination in this test case will be the basis on which this case will be agreed.

The Issue

Quantum.

Location

The property is located on Ballymoss Road. The road itself is a vehicular cul-de-sac but has got a pedestrian throughway. The unit is part of “the Forum, Office Block” and there is a number of retail units located at ground floor level. The building is located in Sandyford Industrial Estate. The subject property is a standard retail unit with pay and display parking to the front.

Accommodation

The accommodation has been agreed by the parties as follows and was measured on a Net Internal Area (NIA) basis:-

Ground Floor/Retail Zone A	62.43 sq. metres
Ground Floor/Retail Zone B	64.36 sq. metres
Ground Floor/Retail Zone C	28.32 sq. metres
Ground Floor/Retail Zone D (store)	41.98 sq. metres

Tenure

The subject property is held on a lease agreement commencing on the 1st May, 2007 and the term is a 20 x 5 year lease. The rent is €84,000 per annum with a six month rent free period

and a break clause in year 10. The neighbouring unit, property no. 2200178 (VA11/5/083) was also let to the same occupier on the 1st January, 2008 and the lease is fixed for a 20 x 5 year term commencing with a rent of €74,000 per annum.

Valuation History

A Valuation Certificate issued on the 15th June, 2010 with a valuation of €103,800. Representations were lodged by Declan Bagnall (Bagnall & Co.) for the subject property on the 12th July, 2010 and the valuation remained unchanged. An appeal was lodged by the agent to the Commissioner of Valuation on the 8th February, 2011 and the valuation was reduced to €6,200. An appeal was lodged to the Valuation Tribunal on the 14th July, 2011.

Appellant's Evidence

Mr. Declan Bagnall took the oath and adopted his précis as his evidence-in-chief. Mr Declan Bagnall for the appellant maintained:

1. The unit is compromised in terms of profile, window display and signage.
2. The pedestrian access to the Stillorgan Luas stop benefits trade at the subject property, though in the main, such benefit only arises during the periods from 8am to 9am and from 5pm to 6pm, Monday to Friday. He also noted that pedestrians also have an opportunity to avail of other streets to travel to and from the above Luas stop, namely Blackthorn Avenue, Blackthorn Road and Arkle Road.
3. The “park and ride” facilities provided at the stop encourage more vehicular than pedestrian traffic in the area of the subject relevant property.
4. Parking on the Ballymoss Road is very restricted.

Mr. Bagnall in his evidence put forward five comparison properties, details of which are set out in summary below:

Comparison Property 1

The subject property under appeal

Floor area 197.09 sq. metres

This unit does not have good visibility, is set back from the road, window display facilities are very limited and a cantilevered canopy protrudes overhead the front window compromising signage display opportunities. The Commissioner of Valuation has applied a

Zone A level of €900 per sq. metre on same notwithstanding the level he claimed was established in May 2007 at €743 to analyse the rental on the subject comparison property. Mr Bagnall reviewed the Lisney Retail Rental Index and sought to rely on the IPD Retail Rental index to analyse the rent on this property.

Comparison Property 2

Baristas Café

Unit B2, Block B, The Forum, Ballymoss Road, Sandyford, Dublin 18

Floor area 158.94 sq. metres

Rent of €74,000 per annum. This property is next door to the subject relevant property and occupied by the same tenant. It was let two years after the valuation date of September 2005 in a rising market. The Valuation Office had applied a Zone A level of €900 per sq. metre, though Mr. Bagnall contended that the level set in January 2008 was €679.75. This unit, he explained, is similar in many respects to the foregoing insofar as this unit does not have good visibility, is also set back from the road, window display facilities are very limited and a cantilevered canopy also protrudes overhead the front window compromising signage display opportunities. Mr Bagnall also reviewed the Lisney Retail Rental Index and sought to rely on the IPD Retail Rental Index to analyse the rent on this property.

Comparison Property 3

Café Togo

Unit 3A, Carmanhall Road, Sandyford Industrial Estate, Sandyford, Dublin 18

Net Annual Value €900 per sq. metre ITZA

Mr. Bagnall informed the Tribunal that Carmanhall Road is a major thoroughfare in Sandyford and one of the best locations there for convenience retailing. Unlike Ballymoss Road, Carmanhall Road, he stated, is not a cul-de-sac and retail services on same benefit significantly more from passing traffic than those situate on Ballymoss Road, including the subject relevant property. This comparison unit has greater profile, better signage, better window display and is located in a building which was specifically designed for retail use. He added that there is a good parking arrangement here at roadside and nearby this property, with 12 designated kerbside spaces.

Comparison Property 4

Centra

Carmanhall Road, Sandyford Industrial Estate, Dublin 18

Net Annual Value €900 per sq. metre ITZA

Mr. Bagnall repeated the details given above for Carmanhall Road and stated that this unit when compared with the subject relevant property has greater profile, better signage, better window display and is located in a building which was specifically designed for retail use. This shop has circa 30 metres of frontage facing the street. He repeated that there is good parking here and nearby this property, with 12 designated kerbside spaces.

Comparison Property 5

Insomnia Coffee

Ground floor, Q House, Furze Road, Sandyford, Dublin 18

Total Area: 149.12 sq. metres

The unit is not zoned for rating purposes. There is a long term lease on this property commencing from June 2008 with 3 months' rent free, with a break clause in year five. Furze Road, Mr. Bagnall said, is similar to Ballymoss Road in that it is also a cul-de-sac. The property was let 2.75 years after the valuation date in a predominantly rising market. The overall rent set in June 2008 was €286.68 per sq. metre. He stated that the Commissioner of Valuation had assessed an overall level there of €500 per sq. metre.

Valuation

Mr. Bagnall concluded his evidence by setting out the calculation of what he considers a fair and equitable NAV of the subject relevant property:

Retail Zone A	62.43 sq. metres @ €580 per sq. metre =	€36,209.40
Retail Zone B	64.36 sq. metres @ €290 per sq. metre =	€18,664.40
Retail Zone C	28.32 sq. metres @ €145 per sq. metre =	€4,106.40
Remainder (stores)	<u>41.98</u> sq. metres @ €100 per sq. metre =	<u>€4,198.00</u>
Total	197.09	€63,178.20
Estimate of NAV = €63,200		

Respondent's Evidence

Mr. Dean Robinson in his evidence offered three comparison properties in support of his submission.

Comparison Property 1

Centra

Units 1 & 2, Carmanhall Road, Sandyford Industrial Estate

Ground Floor	Retail Zone A	118.3 sq. metres @	€900 per sq. metre	NAV €106,470
Ground Floor	Retail Zone B	42.60 sq. metres @	€450 per sq. metre	NAV €9,170
Basement	Store	81.90 sq. metres @	€200 per sq. metre	NAV €6,380
Note: Less 10% front to depth ratio of €12,564				
NAV €129,456 rounded to €129,400				

Mr. Robinson stated that this property is located in Sandyford Industrial Estate approximately 220 metres from the subject relevant property and is very similar in terms of quality and build. It is understood that the property is held on a lease at an annual rent of €123,161 on a term of 35 x 5 years which commenced on 1st February, 2002 which he equated to approximately €840 per sq. metre ITZA.

Comparison Property 2

Cafe Togo

Unit 3A, Carmanhall Road, Sandyford Industrial Estate

Ground Floor	Retail Zone A	63 sq. metres @	€900 per sq. metre	NAV €57,700
Ground Floor	Retail Zone B	20.1 sq. metres @	€450 per sq. metre	NAV €9,045
Note: Less 10% front to depth ratio of €6,500				
NAV €59,245 rounded to €59,200				

This property is also very similar in terms of quality and build, is held on lease at a rent of €8,326 p.a. on a 20 x 5 year lease commencing January, 2002. Rent reduced in 2008 to €5,000 p.a.

Comparison Property 3

Unit B2, Beacon South Quarter.

(Previously O'Brien's Sandwich Bar)

Ground Floor Retail Zone A	45.75 sq. metres @	€50 per sq. metre	NAV €38,887.50
Ground Floor Retail Zone B	50 sq. metres @	€25 per sq. metre	NAV €1,250
NAV €60,137 rounded to			€60,100

The property is located in The Plaza, Beacon South Quarter, and is very similar in terms of quality and build. The property is held on leasehold for a rent of €60,000 p.a. on a 25 x 5 year lease commencing April, 2008 equating to €50 per sq. metre Zone A or €27 per sq. metre overall.

Valuation

Mr. Robsinson felt that a rate of €900 per sq. metre Zone A was fair considering the location of the subject relevant property and its proximity to the Luas stop. He concluded his evidence by setting out his valuation of the property:

Retail Zone A	62.43 sq. metres @	€900 per sq. metre =	€6,187.00
Retail Zone B	64.36 sq. metres @	€450 per sq. metre =	€28,962.00
Retail Zone C	28.32 sq. metres @	€225 per sq. metre =	€ 6,372.00
Retail Zone D	41.98 sq. metres @	€112.5 per sq. metre =	<u>€ 4,722.75</u>
			€6,243.75

Estimate of NAV (Rounded to) = €6,200

Findings

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

1. The appellant's rental evidence (Beacon South Quarter) indicates a significant difference in the value of properties on cul-de-sacs off Carmanhall Road.
2. One can walk to the Luas from Ballymoss Road and Carmanhall Road.

3. There is an overstated value on the subject property when one looks at the comparisons of the Valuation Office, which all have the benefit of pedestrian and vehicular traffic.
4. Vehicular access to retail services in a large mixed office/commercial suburban development such as the Sandyford Business Park is a value consideration.
5. The suggestion of a synergy arising for adjoining properties does not in this case influence the rating hypothesis.
6. When one compares the appellant's comparison property 5 with the subject relevant property, its floor area and the overall rental obligation, there is clearly a difference between them in rental terms and this should be reflected in the valuation of the subject property.
7. The Lisney and IPD indices, though useful, are not particularly of assistance in this exercise as the data therein, as submitted, are neither sufficiently segmented nor analysed to make them relevant to this case.

Determination

Having regard to the foregoing, the Tribunal determines the rateable valuation of the property concerned to be as follows:

Ground Floor Retail Zone A	62.43 sq. metres @	€750 per sq. metre	= €46,822.50
Ground Floor Retail Zone B	64.36 sq. metres @	€375 per sq. metre	= €24,135.00
Ground Floor Retail Zone C	28.32 sq. metres @	€187.50 per sq. metre	= € 5,310.00
Remainder (store)	41.98 sq. metre @	€100 per sq. metre	= <u>€ 4,198.00</u>
Total			= <u>€80,465.50</u>

Say NAV €80,500

And the Tribunal so determines.