

Appeal No. VA11/5/088

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

Eric Hill

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2172519, at 7 Woodbine Park, Blackrock, County Dublin.

B E F O R E

Fred Devlin - FSCSI, FRICS

Deputy Chairperson

Mairead Hughes - Hotelier

Member

Damian Wallace - QFA, Grad Dip

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 5TH DAY OF SEPTEMBER, 2012*

By Notice of Appeal received on the 18th day of July, 2011, the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €24,400 on the above described relevant property.

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

"The assessed valuation is in excess of the actual lease rental paid in 2005. The assessed valuation is in excess of the valuation determined on other neighbourhood centres in the locality."

***NOTE: THIS JUDGMENT WAS HANDED DOWN ORALLY IN ABBREVIATED FORM ON THE 1ST DAY OF DECEMBER, 2011.**

This appeal proceeded by way of an oral hearing in the offices of the Valuation tribunal, Ormond House, Ormond Quay, Dublin 7 on the 1st December, 2011.

At the hearing Mr. Eric Hill, the proprietor of Xanadu Hair Studio, the business occupying the subject property, appeared on his own behalf. Mr. John Purcell, BSc MRICS MSCS, a valuer in the Valuation Office appeared on behalf of the respondent, the Commissioner of Valuation.

In accordance with the rules of the tribunal the parties forwarded to the Tribunal and exchanged précis of evidence and submissions they prepared to adduce at the oral hearing. From the evidence so tendered the following facts material and relevant to the appeal were agreed or are so found.

The Subject Property

The subject property is a lock-up shop located on the north side of Woodbine Park at its junction with Bellevue Park. At this junction there are two short parades of shops with accommodation overhead either in residential or commercial use. The parade in which the subject property is located contains three retail outlets (including the subject), and the other parade contains four. Together the parades provide a limited range of convenience shops and service outlets. The surrounding area is mainly residential in character.

The property concerned is used as a ladies hairdressing salon.

Accommodation

The accommodation, measured on a NIA basis in accordance with the Code of Measuring Practice, is agreed to be as follows:

Retail Zone A	27.81 sq. metres
Retail Zone B	1.89 sq. metres
Office	7.82 sq. metres
Store	<u>3.68</u> sq. metres
Total Area	41.20 sq. metres

Tenure

The property is occupied under the terms and conditions of a lease for a period of ten years from April 2002 at an initial yearly rent of €14,750. In accordance with the conditions of the lease the rent was reviewed with effect from April 2007 to €18,750 per annum. In addition to rent the tenant is responsible for rates, internal repairs and other usual outgoings.

Rating History

The NAV of the property concerned was initially entered onto the valuation list at €24,400. No change was made following an appeal made under Section 30 of the Valuation Act, 2001 and it is against this decision made by the Commissioner of Valuation that the appeal to the Tribunal lies.

Summary of Evidence

MR. ERIC HILL

Mr. Hill, in his evidence, said that in his opinion the valuation of the subject property determined at €24,400 by the Commissioner of Valuation was grossly excessive and argued that it should be €14,850 i.e. the actual rent being paid at the relevant valuation date of 30th September, 2005. Mr. Hill analysed this rate as follows:

Retail Zone A	27.81 sq. metres	@	€190 per sq. metre	=	€13,627
Retail Zone B	1.89 sq. metres	@	€245 per sq. metre	=	€ 463
Offices/Wash Area/Stores	7.82 sq. metres	@	€80 per sq. metre	=	€ 626
Store/ w.c.	3.68 sq. metres	@	€40 per sq. metre	=	<u>€ 147</u>
Total				=	€14,863

NAV Say €14,850

In support of his opinion of NAV Mr. Hill referred to the fact that before moving into the property concerned in December 2006 he had occupied premises on Booterstown Avenue which had an area of 25 sq. metres. The rent payable for this property was €1,000 per annum, equivalent to €40 per sq. metre. Booterstown Avenue, Mr. Hill said, was a better retailing location than Woodbine Park. The current asking rent for the Booterstown premises Mr. Hill said, was in the order of €14,600 per annum.

In regard to Mr. Purcell's comparison no.1 (6 Woodbine Park), Mr. Hill said this property was owner-occupied and to that extent the rent quoted by Mr. Purcell was not a market rent.

Mr. Hill referred the Tribunal to a document contained in Appendix 3 to Mr. Purcell's précis, annotated "Valuation Office Benchmark Analysis of Retail Rental Information" and made the following comments:

Deerpark

- Better location than Woodbine Park;
- Contains a parade of 10 shops, public house, furniture store and motor sales outlet;
- Zone A €500 per sq. metre compared to Zone A €800 per sq. metre at Woodbine Park.

The Rise

- Better location than Woodbine Park;
- Six retail outlets plus SuperValu supermarket;
- Zone A €600 per sq. metre compared to Zone A €800 per sq. metre at Woodbine Park.

Under cross-examination Mr. Hill agreed that he had vacated the premises he previously occupied at Booterstown Avenue as the landlord wanted possession. At the time he left, Mr. Hill said, the lease had two years to run and the rent was €1,000 per annum. He agreed with Mr. Purcell that these premises were not in good repair and that the rent of €1,000 per annum reflected this fact. In regard to the subject property Mr. Hill said it had been vacant for over a year before he moved in in December 2006.

When asked by Mr. Purcell to comment on his comparison no. 2 (Unit 4 Cranford Centre), Mr. Hill said it was not a retail parade as such but nonetheless was at least of similar rental value to Woodbine Park. In regard to rental values generally Mr. Hill agreed that the market for retail premises was stronger in 2005 than in 2002 and 2008 and that this would be reflected in the rents being paid.

MR. JOHN PURCELL

In his evidence Mr. Purcell said that his opinion of NAV of the property concerned was €24,400 calculated as follows:

Retail Zone A	27.81 sq. metres	@ €300 per sq. metre	=	€2,248
Retail Zone B	1.89 sq. metres	@ €400 per sq. metre	=	€ 756
Office	7.82 sq. metres	@ €150 per sq. metre	=	€ 1,173
Store	3.68 sq. metres	@ €70 per sq. metre	=	€ 258
Total			=	€4,435
NAV say				€24,400

In support of his opinion of NAV Mr. Purcell introduced four comparisons details of which are contained in Appendix 1 to this judgment.

In regard to his comparison no. 1, Mr. Purcell said he had no information to show that the rent payable in respect if this property (6 Woodbine Park) may be under an agreement between connected parties. In any event, Mr. Purcell said, he did not consider the rent of €5,392 per annum to be exorbitant. Comparisons 3 and 4 were in regard to a sub-divided property and in this instance the post office section (comparison no. 4) was occupied by the owner. The fact that the valuation of comparison no. 3 was subject to an appeal to this Tribunal (VA11/5/087) and subsequently withdrawn by the appellant gave this comparison added weight, he said.

Mr. Purcell said that as part of the revaluation exercise the Valuation Office had carried out an analysis of all available rental evidence in relation to properties which like the subject property were located in small neighbourhood parades throughout the Dun Laoghaire Rathdown rating authority area. The results of this analysis are illustrated on the maps contained in Appendix 3 of his written précis. Copies of these maps are contained in Appendix 2 to this judgment.

Under cross-examination Mr. Purcell said that following discussions with the rating consultant acting for the occupier of 5 Woodbine Park (comparison no. 3) the appeal to this Tribunal was withdrawn and the valuation of €13,250 affirmed. Mr. Purcell agreed with Mr.

Hill that all of his comparisons with the exception of comparison no. 2 (Unit 4, Cranford Centre) were in the same parade as the property concerned but did not agree that he had disregarded the valuations of other shops occupying similar parade locations nearby such as The Rise and Deerpark. When asked by Mr. Hill to compare Woodbine Park as a trading location with The Rise and Deerpark, Mr. Purcell said that The Rise was the best of the three and that there was little to choose between Woodbine Park and Deerpark which was adversely affected by its proximity to the Stillorgan Shopping Centre and other retail units adjoining it on Kilmacud Road Lower.

Findings

The Tribunal has carefully considered all the evidence and submissions made by Mr. Hill and Mr. Purcell and finds as follows:

1. It is common case that Woodbine Park is located in a mainly residential area and that the outlets contained in the two short parades do not benefit from passing trade and derive their business from a local customer base.
2. The underlying purpose of a revaluation is the preparation of a valuation list where the valuation of each property is individually assessed on a uniform basis so that rate payers pay no more nor no less than their proper proportion of the total rates bill. Mr. Purcell in his evidence outlined how the Valuation office had analysed all available rental evidence in the Dunlaoghaire Rathdown rating authority area and, having done so, prepared the maps contained in Appendix 3 of his précis indicating rental values in respect of retail outlets in neighbourhood parades. It must be said that this type of exercise is very useful but its real worth is dependent upon a critical examination of the quality and volume of the evidence available in each parade followed by a comparative analysis of the evidence to ensure that the Zone A rate per sq. metre applied to each parade reflects their relative trading locations.
3. The available rental evidence in Woodbine Park does not show a strong underlying pattern. Indeed some of the evidence is of limited assistance for different reasons such as a possible related parties transaction (Mr. Purcell's comparison no. 1) and transactions entered into post the relevant valuation date of 30th September, 2005 (Mr.

Purcell's comparison no. 3). The same applies to Mr. Purcell's comparison no. 2 (Unit 4, Cranford Centre).

4. Of all the rental evidence introduced the Tribunal attaches most weight to the rent actually being paid for the subject property which was fixed at €14,750 per annum in April 2002 and increased by agreement in April 2007 to €18,750 per annum. The Tribunal also notes Mr. Purcell's comment that The Rise – where retail units are valued at Zone A €600 per sq. metre – is a better trading location than Woodbine Park.

Determination

Having regard to the above findings the Tribunal determines the NAV of the property concerned in accordance with Section 48 of the Valuation Act, 2001, as at the specified valuation date of 30th September, 2005, to be as follows.

Retail Zone A	27.81 sq. metres	@	€600 per sq. metre	=	€16,686
Retail Zone B	1.89 sq. metres	@	€300 per sq. metre	=	€ 567
Offices	7.82 sq. metres	@	€150 per sq. metre	=	€ 1,173
Stores	3.68 sq. metres	@	€70 per sq. metre	=	<u>€ 258</u>
Total				=	€18,684

NAV say €18,600

And the Tribunal so determines.