

Appeal No. VA11/5/110

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

Dr. John Duignan

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 440376, Health Centre at 22 Lower Kilmacud Road, Kilmacud, County Dublin.

B E F O R E

Fred Devlin - FSCSI, FRICS

Deputy Chairperson

Damian Wallace - QFA, Grad Dip

Member

Michael Connellan Jr - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 9TH DAY OF DECEMBER, 2011

By Notice of Appeal dated 27th day of July, 2011 the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €50,700 on the above described relevant property.

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

"On the basis that the NAV as assessed is excessive & inequitable. The Commissioner has over estimated the subject value on a one year with another basis & has assessed this unit at a higher level than other comparable units."

The appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7, on the 18th day of November, 2011. At the hearing the appellant was represented by Mr. Eamonn Halpin, BSc (Surveying), ASCS, MRICS, MIAVI and Ms. Fiona Quinn, BSc, ARICS, a Valuer in the Valuation Office appeared on behalf of the respondent. Both parties having taken the oath adopted their respective précis which had previously been received by the Tribunal as their evidence-in-chief. From the evidence so tendered, the following emerged as being the facts relevant and material to the appeal.

The Property

The subject property was formerly a domestic residence and comprises a ground floor reception area and doctor's surgery and first-floor surgery.

Location

The subject property is located on the Lower Kilmacud Road opposite the Stillorgan Shopping Centre.

Accommodation

The areas for valuation purposes were agreed as follows:

Reception/waiting room	23.80 sq. metres
Ground Floor Surgery (rear)	21.60 sq. metres
1 st Floor Surgery	32.60 sq. metres

At Issue

Quantum

Valuation History

The property was valued as part of the revaluation of all rateable properties in Dun Laoghaire Rathdown County Council area and a valuation certificate was issued on 15th June 2010 proposing a valuation of €50,700. Representations were submitted to the Commissioner of Valuation on the 10th July 2010 and on 10th December 2010 the Valuation Certificate was issued unchanged. On the 6th February 2011 an appeal was lodged to the Commissioner of

Valuation and following consideration of the appeal the valuation remained unchanged. On 29th July, 2011 an appeal was lodged with the Valuation Tribunal.

Appellant's Evidence

Mr. Halpin took the oath and adopted his précis as his evidence-in-chief and at the outset he made some minor amendments to his précis. Mr. Halpin said that the subject property is different to adjoining properties in that it has a medical permission as opposed to retail permission. He said that the subject property is opposite the Stillorgan Shopping Centre and is a former residence. He added that all of the other properties on the parade have a shop front while the subject property does not.

Mr. Halpin then referred the Tribunal to page 14 of Ms. Quinn's submission which outlines the schematic map for valuations in the area. He said that this was the model set out by the Valuation Office in advance of the appeal process, showing varying values including units in the Shopping Centre at Zone A €2,000, the subject property at €1,250, and €800 per sq. metre for units on the corner of the Kilmacud Road. The shopping centre was reduced on appeal from €2,000 to €1,475 per sq. metre Zone A, and the Commissioner accepted that passing rents in the shopping centre were not to be the basis for the revaluation of properties. Mr. Halpin added that once the Commissioner had reduced the levels in the shopping centre it was unfair not to do the same for units on the periphery. Mr. Halpin also added that Dundrum shopping centre has been very detrimental to the retail units in the vicinity.

Mr. Halpin said that the fundamental aspect of the case revolves around the reduction in values for units in the shopping centre and he then made the following key points in support of his case:

1. The Stillorgan shopping centre has been reduced from €2,000 per sq. metre Zone A to €1,475 per sq. metre Zone A on appeal. This reflected a 26.25% reduction in levels. The appellant is merely seeking to apply the same 26.25% allowance given to the shopping centre in order to clearly reflect their relative position, as defined by the Commissioner in the first instance.
2. It is unsustainable to suggest that the hypothetical tenant would pay more for this unit (Zone A – €1,250 per sq. metre) than for the comparisons he was citing (e.g. Zone A levels established by the Commissioner in the prime area of Georges Street, Dun

Laoghaire at €850 per sq. metre, a much superior location to the subject. Mr Halpin also referred to other retail parades generally at €500-€600 per sq. metre across Dun Laoghaire Rathdown).

3. The primary attraction for secondary units, such as the subject, at this location has always been their proximity to the shopping centre but without the higher rents necessary to occupy a unit within the shopping centre itself.
4. The Commissioner had accepted that the historic upwards-only passing rents in the centre at September 2005 do not represent a NAV value as they do not reflect the true value of the units taking into account the downgrading of the area following the opening of the Dundrum town centre and the consequent loss of business in Stillorgan.
5. The Commissioner's approach in this case is completely unfair, especially when his own evidence of the change in basis for the valuation of units in the shopping centre is taken into account.

Comparisons

In support of his valuation Mr. Halpin introduced 2 comparisons, details of which are set out in Appendix 1 to this judgment.

Mr. Halpin said that he had set out 2 different types of comparisons. The first is an example of units in Stillorgan Shopping Centre, valued at a Zone A rate of €1,475 per sq. metre. The key aspect of these valuations is that the NAV is significantly lower than the actual passing rent. The second comparison, Facet Jewellers, Upper George's Street, Dun Laoghaire, had been valued at a Zone A rate of €850 per sq. metre. Mr. Halpin said that, even with the reduction sought by the appellant's, the NAV of the subject property would still work out at more than the NAV of Facet Jewellers which is in a prime area on George's Street in the centre of Dun Laoghaire, which he considered to be a significantly superior location to the Kilmacud Road.

Valuation

Mr. Halpin concluded his evidence by setting out details of his valuation as follows:

Reception/waiting room	23.80 sq. metres @ €900 per sq. metre =	€21,420
Ground Floor Surgery (rear)	21.60 sq. metre @ €450 per sq. metre =	€ 9,720
1 st Floor Surgery	32.60 sq. metre @ €195 per sq. metre* =	<u>€ 6,357</u>
		€37,497

(*reflects allowance of 15% as ancillary space)

Say RV €37,500

Mr Halpin said that the valuation equates to a level of €480 per sq. metre overall and that this is a very strong rent for a medical centre. Mr. Halpin added that the level agreed for 1st floor space in the area is €230 per sq. metre but that the 1st floor of the subject property is ancillary space and an allowance should be made for this fact. Mr Halpin added that he felt that because of the physical nature of the property, resembling a residence without a proper shop front that some allowance should be made. Mr. Halpin then referred the Tribunal to the photos in his précis which he said emphasised the above points and showed that the subject property is not as desirable as the adjoining properties.

Cross-examination

Under cross-examination and in response to queries from Ms. Quinn, Mr. Halpin accepted that the Commissioner had not stated that the tone for the subject property was drawn from the shopping centre but added that it is a fact that the relative value of the subject property is derived from its proximity to the shopping centre. Ms. Quinn put it to Mr Halpin that the Commissioner had not accepted that Stillorgan shopping centre had suffered a major decline in value due to the opening of Dundrum town centre, but Mr. Halpin responded that the Commissioner did accept this fact by virtue of reducing the NAV for properties in Stillorgan Shopping Centre. He added that levels in the shopping centre cannot be reduced without also reducing the levels on Kilmacud Road.

Respondent's Evidence

Ms. Quinn, having taken the oath commenced her evidence by adopting her written précis as her evidence-in-chief. She said that there is a parade of about 15 shops on Kilmacud Road, the subject property has the look of a commercial property and that there is no reason why a passerby would not look on it as a retail property. Ms. Quinn said that there are no vacancies

on Kilmacud Road and that Lidl will be locating at the corner of the road. The Zone A level of €1,250 has been used for all the properties on the road.

Ms. Quinn then introduced the details of her comparisons (attached at Appendix 2 to this judgment) and said that all of her comparisons had been taken from the parade of shops on the Kilmacud Road and that the levels were derived from the rents on the parade and were not related to rents in the shopping centre. Ms. Quinn provided details of the passing rents in each case. She said that her Comparison 1 adjoins the subject property and is a similar retail unit, while Comparison 2 is located five doors down from the subject property. Ms. Quinn said that Comparison 3 adjoins the subject property and also has a first floor included in its valuation which has been valued at the same level of €230 per sq. metre as the first floor of the subject property. The passing rent of her Comparison 4 equated to a Zone A rent of €1,254 per sq. metre, while the passing rents of her other comparisons equated to higher Zone A levels.

Valuation

Ms. Quinn confirmed the details of her valuation as follows:

Level 0 Zone A Reception	23.8 Sq. Metres @ €1,250 per sq. metre	=	€29,750
Level 0 Zone B Surgery	21.6 sq. metres @ €625 per sq. metre	=	€13,500
Level 1 Surgery	32.6 sq. metres @ €230 per sq. metre	=	€7,498
Total			€50,748

Valuation Office Estimate of NAV (Rounded to) €50,700

Cross-examination

Under examination Ms. Quinn indicated that no allowance was made for the appearance of the unit as, in her opinion, the subject property has a large window to the front and does have the appearance of a commercial unit. Ms. Quinn also confirmed that her Comparison 2 has a 5% frontage to depth downward allowance and that it is the policy of the Commissioner to give an allowance when deemed appropriate. She added that a 6% allowance might be appropriate for the subject property.

Ms. Quinn advised that there is no evidence that the opening of the Dundrum shopping centre affected the rents in Stillorgan, rather in 2006 it was intended that Stillorgan would be

redeveloped and the rental evidence that the Valuation Office analysed reflected the potential redevelopment. She said that the occupiers paid a higher price on the basis that the shopping centre would be redeveloped, which subsequently did not happen. Ms. Quinn confirmed that she did not think it was unfair to amend the values in the shopping centre and not the other values in the surrounding area as to do so would create a ripple effect.

Summary

Mr. Halpin summarised his case and opined that the hearing has been very informative because it was the first time that he has seen the schematic map presented by the Valuation Office. He said that Ms. Quinn had acknowledged that the primary driver of value in this case is the proximity to the shopping centre and when the shopping centre was reduced the other adjacent units should also have been amended.

Ms. Quinn said that the NAV on the subject property reflects the same Zone A rate as on all the shops on the parade.

Findings

The Tribunal has carefully considered all of the oral and written evidence produced by the parties and the arguments adduced at the hearing and make the following findings:

1. The Tribunal accepts that the Commissioner of Valuation valued the parade of shops at Kilmacud Road independently, taking into account the passing rents which in themselves reflected the presence of the nearby Stillorgan Shopping Centre.
2. In the course of cross-examination Ms. Quinn agreed that a frontage to depth allowance of 6% would be appropriate in respect of the subject property and the Tribunal is prepared to accept her evidence in this regard.
3. In relation to the valuation of the first floor, Mr. Halpin provided no evidence to show that the €230 per sq. metre rate applied here is not appropriate and accordingly the Tribunal accepts the rate of €230 per sq. metre as being appropriate in this instance.
4. In a revaluation exercise each property in the local authority area is to be independently assessed in accordance with Section 48 of the Valuation Act, 2001 and

the rental evidence along the parade of shops on Kilmacud Road indicates that the figure of €1,250 per sq. metre Zone A was not unreasonable. The Tribunal notes, however, that the units in the nearby shopping centre were revalued on appeal by the Commissioner of Valuation at €1,475 per sq. metre and having considered the evidence we are of the view, as indeed was the respondent, that shops on the parade should be valued at a lower level and in our opinion a discount of approximately 20% should apply when bench marked against the rate per sq. metre for units in the Shopping Centre.

Determination

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

Reception/waiting room	23.8 sq. metres @ €1,200 per sq. metre =	€28,560
Ground Floor Surgery	21.6 sq. metres @ €600 per sq. metre =	<u>€12,960</u>
		€41,520
less 6% because of layout		<u>€ 2,491</u>
		€39,029
1 st Floor Surgery	32.6 sq. metres @ €230 per sq. metre =	<u>€7,498</u>
		€46,527
NAV say	€46,500	

And the Tribunal so determines.