

Appeal No. VA11/5/124

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

Mary Dillon, The Wooden Spoon

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 520037, Retail (Shops) at 6 Main St (Rear), Bath Place, Blackrock, County Dublin.

B E F O R E

Maurice Ahern - Valuer, IPAV

Deputy Chairperson

James Browne - BL

Member

Frank Walsh - QFA, Valuer

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 9TH DAY OF FEBRUARY, 2012

By Notice of Appeal dated the 9th day of August, 2011 the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €37,300 on the above described relevant property.

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

"The rateable valuation is incorrect having regard to the secondary location of the property on Bath Place, the passing rent payable in 2004 and 2009. The property was subject to a passing rent of €27,500 p.a. in 2005. A subsequent rent review in March 2009 was fixed by an Independent Arbitrator at €27,500 p.a. These rents reflect the secondary location of the shop away from the Main Street and Blackrock Shopping Centre and must be considered in the assessment of the Net Annual Value."

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 8th day of December, 2011. Mr. Conor Ó Cléirigh FSCSI, FRICS, Chartered Valuation Surveyor, represented the appellant while Ms. Olga Harney BSc (Hons) Property Studies, represented the respondent, the Commissioner of Valuation

At the hearing both parties adopted their précis which had previously been received by the Tribunal as being their evidence-in-chief.

Valuation History

Pursuant to Section 48 of the Valuation Act 2001, the property was the subject of a revaluation as one of all ratable properties in the Dun Laoghaire – Rathdown rating authority area. The Valuation Order specifies the 30th day of September 2005 as the valuation date.

The proposed Valuation Certificate was issued on 15th of June, 2010 with a proposed ratable valuation of €3,000. An appeal was lodged by the appellant's agent for the subject property on 2nd of July, 2010, following which the valuation was reduced to €7,300. A further appeal was lodged by the appellant's agent to the Commissioner of Valuation of 8th of February, 2011, following which the valuation remained unchanged. On the 10th of August, 2011, a Notice of Appeal to the Valuation Tribunal was lodged against the decision of the Commissioner.

Location

Blackrock is situated on the east coast, some 7km south-east of Dublin city centre. Blackrock Village is quite a large commercial centre with cafes, bars, restaurants, boutiques, hairdressers, pharmacies, banks and small convenience stores all located within the village. The subject property is located on the northside of Bath Place, on a cul – de – sac at the rear of the Main Street. Dun Laoghaire – Rathdown is the local authority for the area. The subject property is located approximately 10km from Main Street and approximately 200 metres from the Blackrock Shopping Centre. The property is located approximately 30 metres from Blackrock DART Station. There is a Pay & Display cap park directly adjoining the subject property.

Description

The subject property comprises of a rectangular shaped ground floor retail unit in good condition. It is currently being used as a café/delicatessen. The property is located at the rear of 6 Main Street, Blackrock. The ground floor unit is situated within a modern three storey end of terrace building and has a separate side access to the upper floors. The remainder of 6 Main Street is occupied by retail and office users.

Accommodation

The subject property was measured on a net internal area (NIA) basis. Areas have been agreed between the parties. The ground floor area is retail zone A and is measured on an NIA basis at 57.40 sq. metres (617 sq. ft).

Basis of Valuation

The property was the subject of a revaluation as one of all rateable properties in the Dun Laoghaire-Rathdown County Council area. The valuation order for Dun Laoghaire-Rathdown County Council specifies that the 30th day of September 2005 is the valuation date.

The valuation of this property on appeal to the Commissioner of Valuation, was determined by the reference to the values of comparable properties stated in the valuation list which they appear.

The Appellant's Case

Mr. Ó Cléirigh, having taken the affirmation, adopted his written précis and valuation, which had been received by the Tribunal, as being his evidence-in-chief. Mr. Ó Cléirigh stated that the subject property was situated in a secondary location. It was the only shop on the street and therefore from retail perspective is limited as there is no surrounding retail activity on Bath Place. Mr. Ó Cléirigh stated that the subject property is in good condition and under a 35 year lease which commenced on the 6th of April, 1989 with 5 year rent reviews and no break clause. The passing rent on 1st of March, 2005 was €27,500. Mr. Ó Cléirigh informed the Tribunal that he was appointed as an Independent Expert to decide the current market rent as at 1st of March, 2009 in relation to the subject property as provided for in the lease dated the 6th of April, 1989 in the matter of a rent review dispute between the Landlord and Tenant. The decision of rent review as of 1st of March, 2009 is €27,500. Mr. Ó Cléirigh stated that in

his opinion the NAV of the subject property having regard to Section 48 of the Valuation Tribunal Act 2001 should be €30,000. It is as follows:

NIA 57.40 sq. metres @ €520 per sq. metre = €29,848
 Say €30,000 pa

Mr. Ó Cléirigh then dealt with his comparisons. They are as follows:

Comparison No. 1

- Coffee Cup Café Ltd., Ground Floor, 6 Main Street (Rear), Blackrock, Co. Dublin
 (Subject Property)

Property No 520037 RV €13,590 (D.L.R. Revaluation)

The property is ground floor accommodation measuring 57.40 sq. metres. It is held under 35 year lease from 1st of March, 1989 with 5 yearly reviews. A review of the rent was carried out in 2004 and it was set at €27,500 per annum and is detailed as follows:

57.40 sq. metres @ €480 per sq. metre = €27,552
 Say €27,500

Comparison No. 2

- Coffee Cup Café Ltd., Ground Floor, 6 Main Street (Rear), Blackrock, Co. Dublin
 (Subject Property)

Property No 520037 RV €13,590 (D.L.R. Revaluation)

The property is ground floor accommodation measuring 57.40 sq. metres. It is held under 35 year lease from 1st of March, 1989 with 5 yearly reviews. A review of the rent was carried out in 2009 and it remained at €27,500 per annum and is detailed as follows:

57.40 sq. metres @ €480 per sq. metre = €27,552
 Say €27,500

Comparison No. 3

- 3 Carysfort Avenue, Blackrock, Co. Dublin

Property No 519968

The property is ground floor retail and basement accommodation measuring 67.06 sq. metres. It is held under 25 year FRI lease from April 2004 with 5 yearly reviews. It is adjacent to the subject property. The rent was set at €28,000 at the commencement of the lease and detailed as follows:

Retail	37.16 sq. metres	@ €23.97 per sq. metre	=	€23,186
Basement	29.9 sq. metres	@ €161 per sq. metre	=	<u>€ 4,813</u>
				€27,999

Say €28,000

Comparison No. 3.1

- 3 Carysfort Avenue, Blackrock, Co. Dublin

Property No 519968

The property is ground floor retail and basement accommodation measuring 67.06 sq. metres. It is held under 25 year FRI lease from April 2004 with 5 yearly reviews. It is adjacent to the subject property. The rent was reviewed in 2009 and set at €25,000 at the commencement of the lease and detailed as follows:

Retail	37.16 sq. metres	@ €586.16 per sq. metre	=	€21,782
Basement	29.9 sq. metres	@ €107.63 per sq. metre	=	<u>€ 3,218</u>
				€25,000

Cross-Examination

On cross-examination from Ms. Harney, Mr. Ó Cléirigh stated that the rent from 2009 was fixed by an independent expert and he was appointed by the President of the Society for Chartered Surveyors to carry out the report. Mr. Ó Cléirigh did agree that more weight should

be attached to the Open Market Rents. Ms. Harney asked Mr. Ó Cléirigh apart from the subject property if he has any other evidence of High Street Values to which he stated no.

The Respondent's Case

Ms. Harney, having taken the oath, adopted her written précis and valuation, which had been received by the Tribunal, as being her evidence-in-chief. She stated that the subject property is located in a by-commercial area, a strong location with good public transport including the DART line and a regular bus routes. There is a Pay & Display car park directly adjacent to the subject property. Ms. Harney then dealt with her comparisons. They are as follows:

Comparison 1

- The Grafton Barber, 3 Carysfort Avenue, Balckrock, Co. Dublin
Property No 519968

Lease Details: Agreed April 2004: 25 x 5 FRI. Occupation commenced June 2004

Use	Area NIA (sq. metres)	Valuation Level per sq. metre	NAV €	Rent per sq. metre Analysis
Retail Zone A	30.10	650	19,565	772.76
Retail Zone B	4.80	325	1,560	386.38
			21,125	25,114

NAV

€25,114

Total rent agreed in this lease was €28,000

This includes areas which are not part of the above property number

Total rent applicable to the relevant property €25,114

Lease Details: Agreed April 2004: 25 x 5 FRI. Occupation commenced December 2009

Use	Area NIA (sq. metres)	Valuation Level per sq. metre	NAV €	Rent per sq. metre Analysis
Retail Zone A	30.10	650	19,565	772.76
Retail Zone B	4.80	325	1,560	386.38
			21,125	22,104
NAV				€22,104

Total rent agreed in this lease was €25,000

This includes areas which are not part of the above property number

Total rent applicable to the relevant property €22,104

Comparison 2

- Noel Higgins, 10 Carysfort Avenue, Blackrock, Co. Dublin
Property No 502272

Use	Area NIA (sq. metre)	Level per sq. metre	NAV €
Retail Zone A	14.64	650	9,516
Retail Zone B	16.50	325	5,362.50
Retail Zone C	6.80	162.50	1,105
Store	34.9	100	3,490
		NAV	19,473.50

NAV (Rounded to)

€19,470

Representations were submitted on this property by the occupier

The valuation changed from €24,300 to €19,470

No appeal to the Commissioner of Valuation was submitted on this property

Notes:

- Located on Carysfort Avenue
- The property is similar to subject property in terms of quality and build
- Consists of retail space on the ground floor with storage on the first floor
- The property is held leasehold and is valued on the list at €650 Zone A
- Rent set 26/07/2006 at €26,000 which equates to a Zone A rent of €15 psm
- Lease commenced 26/7/2001 at 20 x 5 FRI (as per tenant)

Comparison 3

- Raven Books, 12 Carysfort Avenue, Blackrock, Co. Dublin
Property No 502275

Use	Area NIA (sq. metre)	Level per sq. metre	NAV €
Retail Zone A	26.96	650	17,524
		NAV	17,520

NAV (Rounded to)

€17,520

No representations were submitted on this property. Due to the information received during the representations phase, the valuation altered from €20,220 to €17,520. No appeal to the Commissioner of Valuation was submitted on this property.

Notes:

- Located on Carysfort Avenue
- The property is similar to subject property in terms of quality and build
- Consists of retail space
- The property is held leasehold and is valued on the list at €650 Zone A
- Rent set 10th of May, 2009 at €24,000 which equates to a Zone A rent of €90
- Lease terms: 2 yrs 9 months from 12th August 2008; I.R.I (as per tenant)

Comparison 4

- EBS Building Society, 6 Main Street, Co. Dublin

Property No 520036

Use	Area NIA (sq. metres)	Level per sq. metre	NAV €
Retail Zone A	36.60	1000	36,600
Retail Zone B	27.00	500	13,500
Office	59.30	200	11,860
		NAV	61,900

NAV (Rounded to)

€1,900

Representations were submitted on this property by the appellants agent.

The valuation changed from €4,900 to €1,900

No appeal to the Commissioner of Valuation was submitted on this property

Notes:

- Located on Main Street, at the junction with Bath Place approx 5 m from the subject property
- Consists of ground floor retail space and basement office space
- The property is held leasehold and is valued on the list at €1000 Zone A

- Rent set 07/01/2004 at €71,000 which equates to a Zone A rent of €1,157 (as per the tenants agent)

Cross-Examination of Ms. Harney

When questioned by Mr. Ó Cléirigh as to why she reduced the NAV on the subject property from €43,000 to €37,310 (€750 m² to €650 m²), Ms. Harney stated that she received rental evidence and it gave her reason to reduce the NAV. Following further questions by Mr. Ó Cléirigh, Ms. Harney stated that none of her comparisons had September 2005 rental evidence. Ms. Harney stated that rents between 2004 and 2006 are pretty close to the valuation date of September 2005 to give rental evidence.

Findings & Determination

The Tribunal, having carefully considered all the evidence and arguments adduced by the parties, made the following findings:

1. There was no dispute between the parties as to the description, location or the total accommodation of the subject property
2. The subject property was the only retail premises located down a side non-retail street off the Main Street (rear) of Bath Place, Blackrock, Co. Dublin.
3. The subject property is located in an inferior location in comparison to the Carysfort Avenue comparisons and should be distinguished accordingly
4. The valuation office had applied a 35% discount from High Street to Carysfort Avenue
5. The Tribunal decided that a 45% discount should be given in this case from the level applied in High Street comparison number four to the subject property.

NAV area of 57.40 sq. metres @ €50 per sq. metre = €1,570
 Say €1,500

The Tribunal commends both valuers of the professional and courteous manner in which they presented their evidence and conducted themselves generally throughout the course of the hearing.

And the Tribunal so determines.