

Appeal No. VA11/5/133

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

Olivia Pakenham

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2200046, Retail (Shops) at Platinum Therapy Salon, Unit 3, Roebuck Hill, Roebuck Road, Mount Merrion, County Dublin

B E F O R E

Maurice Ahern - Valuer, IPAV

Deputy Chairperson

Patrick Riney - FSCSI, FRICS, ACI Arb

Member

Joseph Murray - BL

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 10TH DAY OF FEBRUARY, 2012

By Notice of Appeal dated the 10th day of August, 2011 the appellant appealed against the determination of the Commission of Valuation in fixing a valuation of €41,400 on the above described relevant property.

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

"The NAV as applies to the property is excessive. The property would appear to have an entire Zone A rent. The property has virtually no profile. The location is primarily residential."

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 22nd day of December 2011. At the hearing, the appellant was represented by Mr John Kenneally, MRICS, MIAVI and the respondent was represented by Mr Dean Robinson, BSc (Hons) Surveying, a valuer in the Valuation Office.

Location/Description

The subject property is located off the Roebuck road at the junction with Mount Anville Road. The relevant property is a ground floor retail unit, one of three retail units in a four-storey apartment complex.

Basis of Valuation

The Valuation Order specified 30th September 2005 as the valuation date. The valuation was derived from an analysis of open market rents of comparable properties and applied to the subject.

Valuation History

The proposed valuation certificated issued on 15th June, 2010. The valuation was determined at €11,400 and no representations were made. On appeal to the Commissioner of Valuation, the valuation remained unchanged.

Valuation

The retail area of 103.73 sq. metres was valued at €400 per sq. metre giving an NAV of €41,492, rounded to €41, 400.

Appellant's Case

Mr John Kenneally took the oath and adopted his précis as his evidence-in-chief. He put forward the following evidence:

- The subject property has no profile from Fosters Avenue and very little from the Roebuck/ Mount Anville Road. There is a cantilevered building in front of it.
- The respondent's comparison number one, Spar on the Roebuck Road, has good profile.
- The complex was built in 2007.
- The subject unit has a recess location 25 metres from the roadway.

- The unit next to the subject has never been occupied.
- The subject has a long lease of 999 years.
- There is a restrictive clause in the title which prohibits several types of uses such as off-licence, bookmaker, café and convenience store.
- The subject has frontage of 14 metres.
- Access to the subject property is via three steps.
- Use of the relevant property is as a beauty therapy salon.

Appellant's Comparisons

Comparisons numbers 1 and 2 are in a parade of shops in Gledswood Drive off the Roebuck Road in Dublin 14. They have a high profile and are located on a main route into the city. Comparison number 1 is a Spar shop and comparison number 2 is a pharmacy. Their respective net annual value (NAV) devalues at €224 and €81 per sq. metre, which is much lower than for the subject.

Comparison number 3, Paddy Power, Landscape Park in Churchtown, Dublin 14, is a high profile single-storey unit off Braemor Road. This property has ample car space and its NAV devalues at €395 per sq. metre.

Comparison number 4 is property no. 526152 at 35 Georges Street Upper in Dún Laoghaire. It has a high profile corner property location and its NAV devalues at €48 per sq. metre on an overall basis.

Comparison number 5, Clarke's, at Carysfort Avenue, Blackrock, is a high profile corner shop.

In his summary Mr Kenneally said the subject had a bad profile compared to established locations like Dalkey, Dundrum or Churchtown. Unlike comparative locations, Roebuck Road/Mount Annville Road is not even a neighbourhood shopping centre. At the subject complex one unit is vacant. The most comparable comparisons are numbers 1 and 2 on Roebuck Road.

Respondent's Case

Mr Dean Robinson took the oath and adopted his précis as his evidence-in-chief.

The subject was valued according to section 48(3) of the Valuation Act 2001 and the rent which might be expected for the property in its actual state one year with another. Mr Robinson stated that the subject was only 15 metres back from the road. He later agreed that it was 25 metres from the road. In his comparisons he gave recessed locations in Dalkey and Dundrum. He argued that the appellant had given no rental evidence nor given comparisons with recessed locations. He concluded that €400 per sq. metre is a fair valuation bearing in mind the tone of the list.

Respondent's Comparisons

1. Comparison no. 1 is a Spar retail store on the Roebuck Road/ Mount Annville Road corner and is in the same building complex as the subject. The Zone A level is €600 per sq. metre. The passing rent devalues at €507 per sq. metre. This €507 per sq. metre overall rate does not include the storage space.
2. Comparison no. 2 is The Courtyard, Dalkey, valued at €98 per sq. metre overall and in a recessed location similar to the subject.
3. Comparison no. 3 is Cedar's Beauty Salon off Main Street in Dundrum. This is a recessed location and the property devalues on an overall basis to €23 per sq. metre.

Summary

The appellant did not give comparisons with recessed locations. No evidence of passing rent was given by the appellant, and no comparisons were given with restrictive clauses.

Findings

The Tribunal has carefully considered all of the evidence submitted and arguments adduced by the parties and finds as follows:

The legal basis for this valuation is section 48(3) of the Valuation Act 2001 and the emerging tone of the list under section 49(1) of the aforementioned Act.

1. The subject has virtually no profile from being hidden behind a cantilevered building in front.
2. The respondent's comparison number 1, the Spar building, has far superior profile, especially when viewed from Foster's Avenue.

3. The subject is located in a modern apartment retail development block unlike units in established locations like Dalkey and Dundrum referred to in comparisons 2 and 3 by the respondent. Units in these locations would also have large “footfall” with dense population.
4. The appellant’s comparisons 1 and 2, off Roebuck Road, while in a parade of shops older than the subject, were of great assistance to the Tribunal and devalue at €224 and €281 per sq. metre respectively.
5. The subject is not in a neighbourhood area, but rather in an isolated location.
6. In the lease agreement there is a restrictive clause on useage. For example, the subject unit cannot be used as a café or other activities related to the food industry as it is set in an apartment complex. Such restrictions would affect a decision by a hypothetical tenant whether to rent or not.
7. The subject property does have three access steps in addition to being in a recessed location some 25 metres from the roadway.
8. The respondent failed to proffer sufficient evidence to justify the value applied by him to the subject.
9. The appellant used the net annual value (NAV) and rateable valuation (RV), rather than passing rent, to calculate the rate per sq. metre on his comparisons.

Determination

Accordingly, the Tribunal concludes as follows:

The appellant’s estimate of the subject valuation of €285 per sq. metre is justified.

Retail 103.73 sq. metres @ €285 per sq. metre = €29,563.05

NAV Say €29,500.

And the Tribunal so determines.