

Appeal No. VA11/5/163

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

Kevin Lynn, New Image

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 400239, Retail (Shops) at 81B Kilmacud Road Lower, Stillorgan, County Dublin.

B E F O R E

Maurice Ahern - Valuer, IPAV

Deputy Chairperson

Joseph Murray - BL

Member

Frank Walsh - QFA, Valuer

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 21ST DAY OF FEBRUARY, 2012

By Notice of Appeal received on the 22nd day of August, 2011, the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €74,600 on the above described relevant property.

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

"We dispute the rental level applied and the floor area. We request a joint measurement in advance of tribunal."

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 13th day of January, 2012. At the hearing the appellant was represented by Mr. Joseph Hynes MRICS, MSCSI. The respondent was represented by Mr Paul Ogbebor, BEng (Hons), Civil Engineering, a valuer in the Valuation Office. 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 the facts relevant and material to the appeal.

At Issue

The issue between the parties was that of quantum, the appellant maintaining that a discount should be allowed due to certain considerations and conditions.

Valuation History

A Valuation Certificate (proposed) was issued on the 15th June, 2010. The property had a valuation of €77,300. Representations were lodged on behalf of the appellant on the 7th July, 2010 and the valuation was reduced to €74,600 due to frontage to depth ratio allowance increased from 6% to 8% and an additional 5% end allowance given. An appeal was lodged by Colliers International on behalf of the appellant with the Commissioner of Valuation on the 4th February, 2011 following which the valuation remained unchanged. An appeal was lodged with the Valuation Tribunal on 22nd August, 2011.

The NAV was assessed as follows:

Level 0 Retail Zone A	35.13 sq. metres @ €1,250 per sq. metre	=	€43,912.50
Level 0 Retail Zone B	26.77 sq. metres @ €250 per sq. metre	=	€6,731.25
Level 0 Retail Zone C	3.27 sq. metres @ €312.50 per sq. metre	=	€ 1,021.87
Level 0 Kitchen Area	6.768 sq. metre @ €70 per sq. metre	=	€ 473.76
Level 1 Shop	55.9 sq. metre @ €230 per sq. metre	=	€12,875.00
Less 5% End allowance		=	<u>(€3,749.82)</u>
Total		=	€11,246.57
Valuation Estimate of NAV (rounded to)	€1,200		

Location

The subject property is located within a small retail established residential and commercial

area situated on the western side of the Stillorgan dual carriageway with easy access from the M50. There is free parking facility along the Kilmacud Road Lower. The property is adjacent to the DID electrical, Stillorgan Plaza and Texaco Petrol Station.

Description

The subject property comprises a two-storey end of terrace commercial premises used for retail purposes. It is of traditional concrete block with a pitch tiled flat roof. The property has a rendered and painted concrete facade and single glazed aluminium framed front shop. There are five parking spaces available.

Accommodation

The net internal areas of the unit were agreed by both parties as follows.

Floor	Sq. metres
Zone A	35.13
Zone B	26.77
Zone C	3.27
Ancillary	6.77
Mezz	55.90
TOTAL	127.84

Tenure

The subject property is currently owner occupied. The property was previously held on a 35 x 5 FRI lease that commenced on the 1st September, 1996. From 2006, the passing rent was €40,000.

The Appellant's Case

Mr. Hynes, having taken the oath, adopted his written précis which had been received by the tribunal as being his evidence in chief. He made corrections to his précis which were accepted by the Tribunal in which he stated that the overall NAV on the subject property should be €56,908.78. He amended his calculations to reflect same in a new submission presented to the Tribunal. He stated the frontage to depth ratio allowance advanced by him should have applied to the ground floor of the subject property only. Mr. Hynes then put

forward a number of factors which in his opinion affect the value of the subject property, namely:

1. Poor profile: He stated that the subject unit is stepped back from the road by circa 16 metres. Mr Hynes stated that the Valuation Office has applied a 5% discount in respect of poor profile and that he is in agreement with this.
2. Frontage to depth ratio: Mr Hynes stated that the subject unit has a frontage to depth ratio of 1:2.05, which is marginally beyond the 1:2 ratio for which SCSI recommends a 10% discount. He stated that the Valuation Office had initially applied an allowance in respect of poor frontage to depth ratio but that this had subsequently been withdrawn. He stated his opinion that an 8% allowance is reasonable.
3. Accessibility and height above ground level: Mr Hynes stated that the property is built on a hill and elevated above ground level to the front. Consequently, it is accessed by two staircases. In his opinion, this greatly restricts the potential number of occupiers for the unit and hence the potential rent achievable. Additionally, the lowest point of the retail display window to the front is two metres above ground level. This, he contended, is well above the line of vision of the majority population. Due to these factors, he proposed a discount of 10%.
4. Window display frontage: Mr Hynes stated that the majority of the frontage of the subject property is not useable as retail display space and the useable window frontage is only 3.04 metres in length. He contended for a 5% discount in respect of this feature.

Mr Hynes then proceeded in his opinion as to the NAV of the subject property, which he calculated as follows:

Zone	Area	Rent p/sf	Rent	Discount	Overall Discount
ZA	35.13	€1,250.00	€43,912.50		
ZB	26.77	€625.00	€16,731.25		
ZC	3.27	€312.50	€1,021.88		
Kitchen Area	6.768	€70.00	€473.76		

Mezz	55.9	€230.00	€12,857.00		
Total	127.838	€86.65	€74,996.39		

Less 8% on ITZA (Frontage to Depth)

Zone	Area	Rent p/sf	Rent	Discount	Overall Discount
ZA	35.13	€1,150.00	€40,339.50		
ZB	26.77	€75.00	€15,392.75		
ZC	3.27	€287.50	€940.13		
Kitchen Area	6.768	€70.00	€473.76		
Mezz	55.9	€230.00	€12,857.00		
Total	127.838	€48.06	€70,063.14	6.58%	6.58%

Less 5% overall (Visibility)

Zone	Area	Rent p/sf	Rent	Discount	Overall Discount
ZA	35.13	€1,092.50	€38,379.53		
ZB	26.77	€46.25	€14,623.11		
ZC	3.27	€273.13	€893.12		
Kitchen Area	6.768	€66.50	€450.07		
Mezz	55.9	€218.50	€12,214.15		
Total	127.838	€20.66	€66,559.98	5.00%	11.25%

Less 10% overall (Access & Height)

Zone	Area	Rent p/sf	Rent	Discount	Overall Discount
ZA	35.13	€83.25	€4,541.57		
ZB	26.77	€91.63	€1,160.80		
ZC	3.27	€245.81	€803.81		
Kitchen Area	6.768	€9.85	€66.50		
Mezz	55.9	€196.65	€10,992.74		
Total	127.838	€68.59	€9,903.98	10.00%	20.12%

Less 5% overall (Display & Frontage)

Zone	Area	Rent p/sf	Rent	Discount	Overall Discount
ZA	35.13	€34.09	€2,814.49		
ZB	26.77	€467.04	€12,502.76		
ZC	3.27	€233.52	€763.62		
Kitchen Area	6.768	€6.86	€84.81		
Mezz	55.9	€186.82	€10,442.10		
Total	127.838	€445.16	€6,908.78	5.00%	24.12%

Comparisons

Mr.Hynes introduced no comparisons.

Cross-Examination of Appellant

When questioned by Mr. Ogbemor, Mr. Hynes stated that there was no passing trade on the lane way and that the only footfall passing the property were people going to the carpet shop next door. Mr.Hynes did agree with Mr.Ogbemor that there was a marginal benefit for display purposes due to the size of the window. Mr. Hynes further agreed with the tone that had been set for retail units in the area. When asked about the lease for the subject property, Mr. Hynes stated that he was new to the case and he was not sure that the subject property was owner occupied. When questioned by the Tribunal, Mr. Hynes stated that the only difference between his valuation and Mr. Ogbemor's was the percentage of end allowance.

Respondent's Evidence

Mr. Ogbemor having taken the oath adopted his written précis and valuation which had been received by the Tribunal, as being his evidence-in-chief. Mr. Ogbemor contended for NAV of €71,200 on the subject property, details of which valuation are set out previously in this judgement. In support of his opinion of NAV, Mr. Ogbemor put forward 6 comparisons. None of these 6 comparisons were appealed to the Commissioner of Valuation or the Valuation Tribunal. These comparisons are attached to appendix 1 of this judgement. Mr. Ogbemor would not consider the lease of this property as this is not at arm's length. In conclusion, Mr. Ogbemor contended for a NAV of €71,200, calculated as previously set out in this judgment.

Cross-Examination of Respondent

When questioned by Mr. Hynes as to why the allowance for the frontage to depth ratio was removed, Mr. Ogbebor stated that there should have been a loading for the return. Mr Ogbebor acknowledged that a 6% allowance.

Findings

1. There was no dispute between the parties as to rates per sq. metre applied by the Valuation Office, as the subject location is prime.
2. The only dispute between the parties was the magnitude of the end allowance applied to the valuation of the subject property.
3. The Tribunal is of the view that insufficient allowance has been applied to the valuation on the subject property in respect of the disadvantages outlined by the appellant, viz profile, frontage to depth ratio, accessibility and display windows.
4. Accordingly, the Tribunal is of the view that a 20% end allowance is appropriate.

Determination

Having regard to the foregoing, the Tribunal determines that the Net Annual Value of the subject property should be calculated as follows:

Level 0 Retail Zone A	35.13 sq. metres @	€1,250 per sq. metre	=	€43,912.50
LevelRetail Zone B	26.77 sq. metres @	€25 per sq. metre	=	€6,731.25
Retail Zone C	3.27 sq. metres @	€312.50 per sq. metre	=	€ 1,021.87
Kitchen Area	6.768 sq. metres @	€70 per sq. metres	=	€ 473.76
Shop	55.9 sq. metres @	€30 per sq. metre	=	<u>€12,875.00</u>
Total			=	€74,996.38
Less 20% End allowance			=	<u>(€14,999.28)</u>
Total NAV			=	€59,997.10

NAV say €60,000

And the Tribunal so determines.