

Appeal No. VA11/5/243

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

**Leopardstown Club Ltd.**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property No. 2161437, Retail (shops) at Icon Centre, Leopardstown Race Course, Foxrock, County Dublin

**B E F O R E**

**Fred Devlin - FSCSI, FRICS**

**Deputy Chairperson**

**Brian Larkin - Barrister**

**Member**

**Aidan McNulty - Solicitor**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 29TH DAY OF FEBRUARY, 2012**

By Notice of Appeal received on the 30th day of August, 2011 the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €377,000 on the above described relevant property.

The grounds of appeal as set out in the Notice of Appeal are:  
*"The valuation is excessive, inequitable."*

The appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal, Ormond House, Ormond Quay, Dublin 7, on the 9<sup>th</sup> day of January, 2012. At the hearing the appellant was represented by Mr. Martin O'Donnell, BA, FSCSI, FRICS, ACI Arb, Principal of O'Donnell Property Consultants. The respondent was represented by Mr. Paul Ogbebor, BEng. (Hons) Civil Engineering, a valuer at 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 being the facts relevant and material to the appeal.

### **Issue**

Quantum.

Prior to the commencement of the oral hearing and in compliance with the rules of the Tribunal the expert witnesses acting for the parties forwarded to the Tribunal and exchanged a précis of evidence and valuation they proposed to adduce at the oral hearing. From the evidence so tendered and additional information introduced into evidence under oath at the oral hearing the following facts material to the appeal were agreed or are so found.

### **The Property Concerned**

The property known as the ICON Centre comprises a three-storey split level building which was built in 1998 to accommodate an Irish themed bar, restaurant, media room with circular moving floor and a gift shop.

The ICON was specially designed and developed for Baileys as a visitors centre. In the event, the building failed to attract visitors in any numbers and after two years an economic decision was made by Baileys to close and sublet as a bar/restaurant at €71,382 per annum. The property operated as The Rocksy for approximately two years but again was forced to close due to sustained losses. Further attempts to sublet the property proved unsuccessful resulting in Baileys returning the property to the Leopardstown Club Ltd.

In 2005 the Leopardstown Club Ltd leased the property to Masterchef (corporate catering) at an initial rent of €200,000 per annum. This venture also failed within two years. The property

has been vacant and available for letting with DTZ Sherry FitzGerald since 2006 and all attempts at letting are reported to have been unsuccessful.

### **Location**

The property, the Icon Centre, is situated adjacent to the main grandstand on the western side of Leopardstown Racecourse which itself is located six miles due south of Dublin city centre in close proximity to Sandyford Industrial Park and the M50 motorway.

### **Appellant's Evidence**

Mr. O'Donnell, having taken the oath, adopted his written précis of evidence and valuation, which had previously been received by the Tribunal and the respondent, as being his evidence in chief. In evidence Mr. O'Donnell contended that the net annual value (NAV) of the subject property was €80,000, calculated as set out below

Description	Net internal area (sq. metres)	Rate per sq. m (€)	NAV €
Ground Floor	745.42	70.00	52,179.40
1st Floor/Mezzanine	642.48	24.00	15,419.52
1st Floor Store	5.12	24.00	122.88
2 <sup>nd</sup> Floor	79.82	24.00	1,915.68
Basement Store	345.00	24.00	8,280.00
			77,917.48
		Say	80,000.00

Mr. O'Donnell stated that the subject property was a purpose-built visitors' centre which regrettably failed. It was, as a themed visitors centre, a good concept along the lines of the Guinness Hop Store and Visitor Centre and the Irish Distillers Whiskey Corner Visitors Centre but it did not work and as such it should have a nominal valuation for rating purposes. Mr. O'Donnell indicated that this was the central issue and his core argument.

Mr. O'Donnell referred to the 2005 letting of the subject property to Masterchef at a figure of €200,000 and contended that the said rent was clearly too high at that date given that the

Masterchef venture proved unsuccessful resulting in its surrender of the lease. Thus he argued that the passing rent of €200,000 was too high and should not be a guide to the NAV.

Mr. O'Donnell, in line with his précis, also stated that the subject property suffered from deficits in terms of poor natural light and inadequate access.

Mr. O'Donnell further stated that it was difficult to source appropriate comparisons for the subject property and in the circumstances contended for the following:-

- 1) That the subject property be valued at the level attributable to storage or industrial buildings in the Sandyford area; or
- 2) That the subject property be valued at a level attributable to a comparable isolated restaurant in the area.

In support of his opinion of NAV Mr. O'Donnell introduced the following comparisons, details of which are attached at Appendix 1 to this judgment. Referring to his comparisons in précis order, Mr. O'Donnell provided the following evidence:

#### Comparison no. 1

Kenneth Hodgins Interiors, Unit 1B, Birch Avenue, Stillorgan Industrial Park, Co. Dublin

This is a modern warehouse/showroom in a prime location valued at €140 per sq. metre which serves to illustrate that the subject, a finished bar/restaurant which at best could be used for storage purposes, is clearly excessively valued at €300 per sq. metre.

#### Comparison no. 2

Beaufield Mews, Woodlands Avenue, Stillorgan, Co. Dublin.

This is a purpose-built restaurant located in a residential area, unlike the subject property, and is valued much lower than the subject at €170 per sq. metre for first floor and €190 per sq. metre for ground floor.

#### Comparison no. 3

Roseglen Furniture, Dublin Road, Bray.

This is a furniture showroom located in an old adapted factory building on the Dublin Road, Bray, set out over ground floor and basement levels. This property benefits from major

profile on the main road into Bray and is valued at €70 per sq. metre, the lowest level for a commercial property of which Mr. O'Donnell is aware in the Dún Laoighaire Rathdown area.

Comparison no. 4

Montana Furniture Ltd, Unit T11, Maple Avenue, Stillorgan Industrial Park, Dublin 18

This is a furniture showroom located in the Stillorgan Industrial Park and is a converted industrial building. This property has a mezzanine area installed which has been valued at €24 per sq. metre. In Mr. O'Donnell's opinion this property assists in establishing an NAV for the upper floors in the subject property albeit allowing for the fact that it is for a different use.

When put to him by Mr. Ogbebor that his valuation of €80,000 was too low in the light of the rent of €200,000 paid by Masterchef in 2005, Mr. O'Donnell stated that the said rent was regrettably too high and in any event the subject was a failed visitors centre to which a nominal valuation should attach and not a restaurant/retail unit in the true sense of the word.

**Respondent's Evidence**

Mr. Ogbebor, having taken the oath, adopted his précis of evidence and valuation, which had previously been received by the Tribunal and appellant, as his evidence in chief.

In his evidence Mr. Ogbebor contended for a rateable valuation of €377,000 calculated as follows:-

Level	Use	Net internal area (sq. metres)	Level per sq. metre (€)	NAV €
0	Restaurant	745.42	300	223,626
1	Restaurant	642.48	200	128,496
1	Store	5.12	50	256
2	Restaurant	79.82	100	7,982
-1	Store	345.00	50	17,250
				377,610

Valuation Office estimate of NAV (rounded to) €377,000

In support of his opinion of the NAV, Mr. Ogbebor introduced four comparisons, details of which are attached to this judgment at Appendix 2. He commented on his comparisons as follows:

Comparison no. 1

McGuirk Golf, Leopardstown Racecourse , Foxrock, Co. Dublin.

Shop (Ground Floor) 342.47 sq. metres @ €30 per sq. metre

Shop (Ground Floor) 5.81 sq. metres @ €100 per sq. metre

Shop (Mezzanine) 58.50 sq. metres @ €100 per sq. metre

Comparison no.2

Baan Thai Restaurant, Block P, Central Park Business Park, Leopardstown, Co. Dublin.

Restaurant (first floor) 336.8 sq. metres @ €280 per sq. metre. This property was rented at €61.15 per sq. metre in 2004 on a 25-year lease with five-yearly rent reviews at an annual rent of €2,000 fixed on 25<sup>th</sup> August, 2004.

Comparison no. 3

Diamond Living, Unit C1, Beacon South Quarter, Sandyford, Dublin 18.

Shop (Ground Floor) 725.91 sq. metres @ €310 per sq. metre

Shop (First Floor) 716.47 sq. metres @ €155 per sq. metre

Store (Ground Floor) 30.24 sq. metres @ €120 per sq. metre

This property was rented at €335.30 per sq. metre (ground floor) in 2007.

Comparison no. 4

Roche Borois Ireland, Unit D1, Beacon South Quarter, Sandyford, Dublin 18

Shop (Ground Floor) 293.73 sq. metres @ €450 per sq. metre

Shop (First Floor) 170.34 sq. metres @ €225 per sq. sq. metre

Cross-examined by Mr. O'Donnell it was put to Mr. Ogbebor that by and large his comparisons were retail units, many with locational advantages to the subject property which is a failed visitors centre. Mr. Ogbebor replied that the retail units were merely used as a guide. In particular, Mr. O'Donnell questioned the similarity of the Baan Thai Restaurant as a proper comparison given its superior location in Central Business Park, Leopardstown, and associated more significant footfall. In addition, Mr. O'Donnell drew Mr. Ogbebor's

attention to the fact that the subject was more than five times the size of the “Baan Thai” which also benefited from greater natural lighting.

### **Findings**

The Tribunal has carefully considered all the evidence and arguments adduced at the hearing including all the comparative evidence and makes the following findings:-

- 1) The Tribunal accepts the appellant’s contention that the subject property is a failed visitors’ centre.
- 2) The Tribunal accepts the appellant’s contention that the subject property was not a typical restaurant/retail unit given its restricted footfall/clientele to the rear of a grandstand in an off-centre racecourse location.
- 3) The Tribunal nevertheless acknowledges the respondent’s point that Masterchef, despite whatever limitation existed along operational or profitability lines, paid a rent in 2005 of €200,000 for the use of the subject premises.
- 4) The Tribunal rejects the respondent’s contention that the subject premises are comparable to the Baan Thai Restaurant located in the superior Central Business Park location with its greater footfall from the surrounding offices, better natural lighting and its being only one fifth the size of the subject, with a rate per sq. metre only marginally less at €280 per sq. metre.
- 5) The Tribunal does not accept in all the circumstances that the ground floor rate per sq. metre of €70, allegedly the lowest applicable to the commercial property in Dún Laoighaire Rathdown (see appellant’s comparison no. 3), is appropriate to the subject.

### **Determination**

Accordingly, therefore, having regard to the foregoing, including the fact that this building was designed and built to meet the needs of a specific end user that restricts its potential for other commercial uses and its rental value, the Tribunal determines the NAV of the property concerned to be €190,000 calculated as follows:-

Description	Area (sq. metres)	Rate per sq. metre (€)	NAV €
Ground Floor	745.42	160	119,267
1st Floor/Mezzanine	642.48	80	51,398
1 <sup>st</sup> Floor/Store	5.12	40	205
2 <sup>nd</sup> Floor	79.82	70	5,587
Basement Store	345.00	40	13,800
Total			190,257

NAV say €190,000

And the Tribunal so determines.