

Appeal No. VA12/3/013

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

James Mooney

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2210487, Retail Warehouse at Lot No. Lot 2 / Unit 2, Woodbine Business Park, Hewitsland, New Ross Rural, New Ross, County Wexford.

B E F O R E

Maurice Ahern - Valuer, IPAV

Deputy Chairperson

Frank Walsh - QFA, Valuer

Member

Michael Connellan Jr - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 18TH DAY OF JANUARY, 2013

By Notice of Appeal received on the 20th day of July, 2012, the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €164 on the above described relevant property.

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

“That the RV as assessed is excessive and inequitable and not in line with comparable properties already on the list.”

“Part of the ground floor is unfitted and only capable of occupation as stores. Additionally the level proposed for the mezzanine is excessive in terms of its relative worth.”

The appeal proceeded by way of an oral hearing which took place in the offices of the Valuation Tribunal on the third floor of Holbrook House, Holles Street, Dublin 2, on the 6th day of September, 2012. Mr Eamonn Halpin BSc (Surveying) MRICS, MSCSI of Eamonn Halpin & Co. Ltd. represented the appellant, and the respondent was represented by Ms Gillian Beale, BSc (Property Studies) MIAVI, Assoc. RICS, a valuer at the Valuation Office.

In accordance with the Rules of the Tribunal, the parties had exchanged their respective précis of evidence prior to the commencement of the hearing and submitted same to this Tribunal. At the oral hearing, both parties, having taken the oath, adopted their précis as being their evidence-in-chief. This evidence was supplemented by additional evidence given either directly or via cross-examination. From the evidence so tendered, the following emerged as being the facts relevant and material to this appeal.

At Issue

Quantum.

The Property

The subject property is a modern, purpose-built, mid-terrace retail warehouse, of steel frame construction with part block work / part double-skin cladding walls and single-skin roof with 6.07 metres eaves height. There is a roller shutter loading door and glazed pedestrian access to front. The accommodation comprises ground floor retail warehouse/showroom with mezzanine first floor showroom. The subject property was constructed *circa* 2005 and is one of six properties valued for rating purposes in this section of the development.

Location

The subject property is on the periphery of New Ross town centre in Woodbine Business Park. The subject is located approx 1.5 km east of New Ross town centre on the N30, close to its junction with the N25 (New Ross to Wexford Road). The property is 38 km west of Wexford town and 23 km north east of Waterford City.

Floor Areas

The subject was measured on a Gross Internal Area (GIA) basis.

Block	Use	Area (sq. metres)
1	Retail warehouse	291.58
2	Underdeveloped (partitioned) store	148.22
1,2	Mezzanine / 1 st Floor showroom	383.70

Total (GIA) 823.50 sq. metres

Valuation History

- 18 October 2011 Valuation Certificate (proposed) issued with a RV of €184
- 4th November 2011 Representations made to Commissioner of Valuation
- 14th November 2011 Valuation Certificate issued unchanged at RV €184
- 21st November 2011 Subject property entered onto the Valuation List
- 23rd December 2011 Appeal submitted to the Commissioner of Valuation
- 26th June 2012 Valuation Certificate issued with a RV of €164
- 20th July 2012 An Appeal was lodged with the Valuation Tribunal

Appellant's Case

Mr. Eamonn Halpin took the oath and adopted his précis as his evidence in chief. Mr. Halpin put forward the following points in evidence:

1. *“The unit here is a similar to those units already assessed in the Woodbine business park nearby such as the already highlighted Kilkenny aquatics unit (retailing aquatic and pet products to the public). The subject unit has planning for retail warehousing, this is also the case with many of the units in the earlier woodbine development. Additionally many of the adjoining units are in industrial use or vacant. In this type of location retail planning is of no addition to the value of the unit. The local market*

cannot support more retail warehousing. Indeed, a fully fitted and serviced retail park on the other side of the Main Road which is less than 250 metres from the subject property (adjoining Tesco), has just 2 of its 7 remaining units occupied highlighting the failure of even the best retail warehousing development in the vicinity.

2. The ground floor remains over-assessed in view of comparisons in Woodbine Bus. Pk. The levels established by the Commissioner in the Business Park prior to this revision appear to comprise the following:

- a. Retail ground floor road fronted: €54.68/m². Retail mezzanine road fronted: €27.34/ m² (50% of ground floor level) (McManus Furniture – Property No. 2175665 – Not appealed)*
- b. Mid Terrace Retail Warehousing/Showroom: €36/ m² (VA05/3/075 Kilkenny Aquatics – Agreed Prior to hearing). Agent: E. Halpin & Co.*
- c. Ground floor industrial warehouse: €34.17/m². Mezzanine Industrial Warehouse: €13.67/ m² (VA05/1/022 Stephen McManus)*

Several crucial factors in determining the value of the subject property can be deduced from the above. Firstly, that the Ground floor remains over-assessed in view of the mid-terrace showroom comparison. Secondly, that the maximum relationship in value between the ground floor and mezzanine, even in the road fronted retail warehouse comparison, is 50%. Thirdly, that the Commissioner elected to very clearly differentiate between retail warehouse properties with roadside frontage such as McManus Furniture and mid-terrace retail warehouse/showroom properties such as Kilkenny Aquatics which were assessed at the same time. And Fourthly, that the Commissioner upon original inspection of these units in 2005 did not differentiate significantly (€36/m² versus €34.17/m²) between the ground floor of a showroom type property (Kilkenny Aquatics) and a warehouse type property (Stephen McManus), despite the retail use.

3. Taking all of the above into account, the appellants contend that they are indeed also a mid-terrace showroom fitted property with no profile to the road, hence the same rate of €36/m² should apply to the ground floor showroom section, and a maximum rate of 50% less (i.e. €18/m²) should apply on the mezzanine in line with the decisions of the commissioner in this regard.

4. *Equally, part of the unit (approx. 150 m² – behind the main shutter doors) has remained with a plain block finish and unfitted. It is therefore only of use to any occupier of the fitted area as storage. **Additionally, the majority of this space has headroom of only 3 metres, further constraining its value as a store.** The appellants believe this should be valued in its constituent parts (i.e. the part with full headroom and the part with restricted headroom) an appropriate storage/loading level applied to each, namely €34.17/m² and €20.50/m² respectively as defined by the industrial comparisons cited from within the development.*

5. *The level employed by the Commissioner for the Mezzanine area is also grossly excessive and is at odds with his general approach to mezzanine areas both in the subject development and the Wexford County Council rating area. The current levels imply that the mezzanine is worth 71.5% of the ground floor level, which is unsustainable. The general approach used by the Commissioner has tended to place Mezzanines at levels approx. 25-50% of that used for the ground floor, and a **maximum** of 50% elsewhere in the development.*

6. *The addition of the Mezzanine has resulted in headroom of approx. 3 metres on each floor. This configuration is also less attractive for warehousing/industrial use as it is greatly compromised by the mezzanine due to the lack of full headroom which detracts greatly from its overall attractiveness. Equally, the mezzanine is not fitted with suspended ceilings and as such its potential value as offices or showroom is also diminished.*

7. *The subject property is currently to let through Sherry Fitzgerald (Radford) asking €2,083/month. Number 34 Woodbine Business Park is also to let through the same auctioneer as an industrial unit asking €1,167/month (279m² ground floor, 139m² mezzanine). When devalued, the asking rents for both properties on the ground floor and mezzanine show little difference if any between the value of the industrial use and the showroom use, which remains consistent with the initial approach of the Commissioner on revision in 2005, as discussed above.*

8. *The appellants seek to have their assessment reduced to more fairly reflect their unit's relative value taking into account their actual location, mid-terrace nature, together with the level applied to other units in the development and elsewhere in the rating area as shown by the comparisons."*

Valuation of the Appellant

Mr. Halpin contended for a rateable valuation of €104 for the subject property, calculated as follows:

Estimated NAV of 1988 Basis:

Gr. Flr. showroom	291.58 sq. metres	@ €36 per sq. metre	= €10,497
Gr. Flr. Loading/Store (full headroom–unfitted)	36.60 sq. metres	@ €34.17 per sq. metre	= €1,250
Gr. Flr. Store (3 metre headroom–unfitted)	111.62 sq. metres	@ €20.50 per sq. metre	= €2,288
Mezzanine	383.70 sq. metres	@ €18 per sq. metre	= <u>€6,907</u>
			€20,942

RV @ 0.5% = €104.71

Say RV €104

Appellant's Comparison Properties

In support of his opinion of rateable valuation, Mr. Halpin put forward seven comparison properties, as follows:

1. Kilkenny Aquatics, Unit 4 Woodbine Business Park.
Property No: 2175658; RV €60 (VA05/3/075, agreed prior to hearing)
NAV basis: Ground Floor Showroom 331 sq. metres @ €36 per sq. metre
2. Michael Murphy & Co., Unit 10 Woodbine Business Park.
Property No: 2172636; RV €130 (2005)
NAV basis: Ground Floor Warehouse 595 sq. metres @ €34.17 per sq. metre
1st Floor 439 sq. metres @ €13.67 per sq. metre
3. Dermot Kehoe Supply & DIY, Woodbine Business Park.

Property No: 2189020; RV €10 (2011 Revision & Appeal)

NAV basis:	Porch	13.78 sq. metres @	€34.16 per sq. metre
	Open Area	266.00 sq. metres @	€1.36 per sq. metre
	Retail Warehouse	986.61 sq. metres @	€34.16 per sq. metre
	Retail Mezzanine	573.63 sq. metres @	€17.08 per sq. metre
	Offices	110.80 sq. metres @	€34.16 per sq. metre
	Warehouse	1,357.65 sq. metres @	€24.60 per sq. metre
	Store	592.27 sq. metres @	€13.66 per sq. metre
	Store	848.00 sq. metres @	€13.66 per sq. metre
	Yard	900.00 sq. metres @	€1.14 per sq. metre

4. Darren Langrell Furniture Ltd, 4C Moyne Bus. Park, Old Dublin Road, Enniscorthy.

Property No: 2205631; RV €79 (2009)

NAV basis:	Gr. Fl. Entrance	28.8 sq. metres @	€41.00 per sq. metre
	Gr. Fl. Offices	29.26 sq. metres @	€41.00 per sq. metre
	Gr. Fl. Workshop	280.00 sq. metres @	€23.92 per sq. metre
	Mezz. Showroom	253.98 sq. metres @	€20.50 per sq. metre

5. George James, 1 Main Street, Gorey.

Property No: 1158587; RV €10 (2009)

NAV basis:	Retail Warehouse	298.98 sq. metres @	€41.00 per sq. metre
	Mezz. Retail	163.68 sq. metres @	€20.50 per sq. metre
	Stores	293.50 sq. metres @	€10.25 per sq. metre
		133.41 sq. metres @	€17.08 per sq. metre
	Mezz. Stores	203.79 sq. metres @	€6.83 per sq. metre
		126.96 sq. metres @	Nil

6. Sweeney's Handcrafted Designers Ltd, Larkin's Cross, Barntown, Co Wexford.

Property No: 2165075; RV €138 (2010 Appeal)

NAV BASIS:	New Showroom	218.68 sq. metres @	€41.00 per sq. metre
	New Mezz.	111.00 sq. metres @	€ 6.85 per sq. metre
	New Stores	146.32 sq. metres @	€20.50 per sq. metre
	Workshop	368.00 sq. metres @	€27.34 per sq. metre
	Store	39.04 sq. metres @	€20.50 per sq. metre
	Offices	80.12 sq. metres @	€41.00 per sq. metre

Mezz. 82.80 sq. metres @ € 6.85 per sq. metre

7. John Doyle (Doyle Daewoo), Ardavan Business Park, Co. Wexford.

Property No: 2172549; RV €90 (2005)

NAV basis: Showroom 444.08 sq. metres @ €40.00 per sq. metre

Cross-examination of the Appellant

Under cross-examination Mr. Halpin again stressed that the subject property is mid-terraced and in a poor location with no road frontage.

Mr. Halpin stated that his valuation was in line with the ‘tone of the list’. When questioned on planning, Mr. Halpin agreed that the subject property had retail planning but opined that retail planning is of no addition to the value of the unit as the local market cannot support more retail warehousing.

Respondent’s Case

Ms. Beale, having taken the oath, adopted her précis as being her evidence-in-chief.

Ms. Beale stated that the property was valued by reference to the ‘tone of the list’, Section 49 of the Valuation Act 2001. She stated that all the comparisons referred to in her précis are currently on the valuation list and are similar in nature to the subject property – they are all retail warehouses with similar eaves heights and all are located within the subject development.

Ms. Beale stated that prior to the Valuation Tribunal hearing she had altered her opinion of valuation for the subject property, upon closer examination of the comparisons within Woodbine Business Park.

Ms. Beale’s fourth comparison has a rate per sq. metre of €49 for the ground floor. This was determined by the Valuation Tribunal in 2005 (VA05/1/023 – **Stephen McManus**). The subject’s ground floor has been valued less than this at a rate per sq metre of €47.84.

Ms. Beale believed that the issues raised by the appellant have been adequately reflected in her opinion of valuation.

Valuation by the Respondent

Ms. Beale contended for a rateable valuation of €154 for the subject property, calculated as follows:

Block 1	Retail Warehouse	291.58 sq. metres @ € 47.84 per sq. metre = €13,949.18
Block 2	Store	148.22 sq. metres @ € 34.17 per sq. metre = €5,064.67
Block 1,2	1 st Floor Mezzanine	383.70 sq. metres @ € 1.00 per sq. metre = <u>€11,894.70</u>
NAV		€30,908.55

Rateable Valuation – Total NAV €30,908.55 x 0.5% = €154.54

RV €154

This is lower than the valuation of RV€164 currently in the Valuation List, which is the valuation under appeal.

Respondent's Comparison Properties

In support of her opinion of rateable valuation, Ms. Beale put forward 6 comparison properties, as follows:

Comparison 1

Property No: 2200248 - John O'Leary t/a Display Studios, Unit 5, Woodbine Business Park.

Ground Floor Retail Warehouse:	407.02 sq. metres	@ € 47.84
Ground Floor Store:	31.00 sq. metres	@ € 34.17
First Floor Retail Warehouse:	407.02 sq. metres	@ € 1.00
First Floor store	31.00 sq. metres	@ € 6.83

Total NAV = ~~€~~7,430.65

RV @ 0.5% = €187.15 say RV€189

Comparison 2

Property No: 2175662 - Cedarwood Kitchens Limited, Unit 12, Woodbine Business Park.

Ground Floor Retail Warehouse:	312.86 sq. metres	@ € 4.67
Ground Floor Storage Areas:	146.40 sq. metres	@ € 34.17
First Floor Showroom:	473.57 sq. metres	@ € 1.00
First Floor Office:	15.60 sq. metres	@ € 34.17

Total NAV = ~~€~~2,055.97

RV @ 0.5% = €210.27 say RV €210

Comparison 3

Property No: 2175665 - McManus Furniture, Unit 16, Woodbine Business Park.

Ground Floor showroom	549.84 sq. metres	@ €54.67
Ground Floor store	329.40 sq. metres	@ €34.17
First Floor showroom	549.84 sq. metres	@ €27.33
First Floor mezzanine store	329.40 sq. metres	@ €13.67

Total NAV = €60,845.35

RV @ 0.5% = say €300

Comparison 4

Property No: 2172635 - Stephen McManus, Unit 9 (ground floor), Woodbine Business Park.

Ground Floor Retail Warehouse: 331.24 sq. metres @ €49.00

NAV = €16,230.76

RV @ 0.5% = €81.15 say RV €80

Comparison 5

Property No: 2175660 - Ann Duffy Interiors, Unit 9 (first floor), Woodbine Business Park.

First Floor Retail Warehouse: 275.85 sq. metres @ €41.00

First Floor Workroom: 45.00 sq. metres @ €27.33

Total NAV = say €12,000.00

RV @ 0.5% = €60

Comparison 6

Property No: 2210485 - Geraldine Kennedy, Unit 4 (Vacant), Woodbine Business Park.

Ground Floor Retail Warehouse 439.80 sq. metres @ €47.84

First Floor Mezzanine Retail Warehouse 324.18 sq. metres @ €41.00

Total NAV = €34,331.61

RV @ 0.5% = €171.66 say RV €172

Cross-Examination of the Respondent

In the course of cross-examination, Mr Halpin put it to Ms Beale that it has been the approach of the respondent to value mezzanines found in properties in the subject development at no

more than 50% of the level applied to their respective ground floor areas. Ms Beale accepted that the level applied to the mezzanine of the subject property was “on the high side” and accepted Mr Halpin’s point.

Summaries

Appellant - In the summary section of his précis of evidence Mr. Halpin stated the following:

- The property is a mid-terraced and has little profile to the main road.
- He is of the view that the ‘tone of the list’ for Woodbine Business Park indicates three distinct levels:
 - : A level for Roadside Retail Warehouse use
 - : A level for Non – Roadside Retail Warehouse (Showroom use), and
 - : A level for Industrial use

In this context the appellant believes that the levels applied to the non–roadside Retail Warehouse/Showroom (appellant’s comparison 1, Kilkenny Aquatics) should be applied and 50% of this level should be applied to the mezzanine.

Respondent - In conclusion, Ms. Beale made the following points on behalf of the respondent:

- The property was valued by reference to the ‘tone of the list’, Section 49 of the Valuation Act 2001. All of the comparisons referred to in her précis are currently on the valuation list, all are Retail Warehouse/Showrooms and all are in the same development as the subject property.
- Prior to the hearing of the instant appeal, Ms Beale had altered her opinion of valuation of the subject property, upon closer examination of the comparisons within the subject development.
- Ms. Beale’s comparison number 4 has a rate of €49 per sq. metre and this rate was determined by the Valuation Tribunal in 2005. The subject property ground floor has been valued less than that rate per sq. metre at €47.84 (**VA05/1/023 – Stephen McManus**).

Findings

The Valuation Tribunal thanks the parties for their efforts, their written submissions, arguments and contributions at hearing, and finds as follows:

1. The statutory basis for valuing properties on foot of a request for a revision is contained in Section 49 of the Valuation Act 2001 which states as follows:
“49. – (1) if the value of a relevant property (in subsection (2) referred to as the “first mentioned property”) falls to be determined for the purpose of section 28(4), (or of an appeal from a decision under that section) that determination shall be made by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situate in, of other properties comparable to that property.”
2. The comparative evidence introduced by both parties is mainly from Woodbine Business Park, with all of the respondent’s comparisons located there. The Tribunal attaches most weight to the respondent’s comparisons.
3. The Tribunal notes its earlier determination in respect of **VA05/1/023 – Stephen McManus**.
4. The Tribunal notes the respondent’s acknowledgment of a general approach to valuing mezzanines within the subject development at no more than 50% of the level applied to their respective ground floor areas.
5. The Tribunal notes that the opinion of valuation in respect of the subject property put forward by the consultant valuer appearing for the respondent, namely RV€154, is lower than the valuation under appeal.

Determination

In view of the foregoing, the Tribunal determines that the Rateable Valuation on the subject property should be calculated as follows:

Ground Floor Retail Warehouse	291.58 sq. metres @ € 47.84 per sq. metre = €13,949.18
Ground Floor Store	148.22 sq. metres @ € 34.17 per sq. metre = € 5,064.67
First Floor Mezzanine	383.70 sq. metres @ € 23.92 per sq. metre = <u>€ 9,178.10</u>
Total NAV	€28,191.95

~~€~~28,191.95 x 0.5% = ~~€~~140.96

RV say €141

And the Tribunal so determines.